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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 20, 27, and 73

[AU Docket No. 14-252; GN Docket No. 12-268; WT Docket No. 12-269; DA 15-1183]

Application Procedures for Broadcast Incentive Auction Scheduled To Begin on March 29, 2016;

Technical Formulas for Competitive Bidding

AGENCY: Federal Communications Commission.

ACTION: Final rule; requirements and procedures.

SUMMARY: This document announces the final application procedures for the broadcast television spectrum incentive auction (Auction 1000), including the forward and reverse auctions (Auctions 1001 and 1002 respectively). This document also summarizes detailed information, instructions, and deadlines for filing applications, as well as certain post-auction procedures established by the Commission's prior orders.

DATES: Reverse Auction (Auction 1001) applications must be filed prior to 6 p.m. Eastern Time (ET) on December 18, 2015; Forward Auction (Auction 1002) applications must be filed prior to 6 p.m. ET on January 28, 2016.

FOR FURTHER INFORMATION CONTACT: Wireless Telecommunications Bureau, Auctions and Spectrum Access Division; for general auction questions: Linda Sanderson at (717) 338-2868; for reverse auction legal questions: Erin Griffith or Kathryn Hinton at (202) 418-0660; for forward auction legal questions: Valerie Barrish or Leslie Barnes at (202) 418-0660. Media Bureau, Video Division; for broadcaster questions: Dorann Bunkin at (202) 418-1636.

SUPPLEMENTARY INFORMATION: This is a summary of the Auction 1000 Application Procedures Public Notice (Auction 1000 Application Procedures PN or Public Notice), AU Docket No. 14-252, GN Docket No. 12-268, WT Docket No. 12-269, and DA 15-1183, released on October 15, 2015. The complete text of the Auction 1000 Application Procedures PN, including all attachments and associated appendices, is available for public inspection and copying from 8:00 a.m. to 4:30 p.m. ET

Monday through Thursday or from 8 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street S.W., Room CY-A257, Washington, DC 20554. The complete text is also available on the Commission's website at <http://wireless.fcc.gov>, or by using the search function on the ECFS web page at <http://www.fcc.gov/cgb/ecfs/>. Alternative formats are available to persons with disabilities by sending an email to FCC504@fcc.gov or by calling the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared a Supplemental Final Regulatory Flexibility Analysis (SFRFA) of the possible significant economic impact on small entities by the procedures and instructions described in Attachment 4 of the Auction 1000 Application Procedures PN.

Report to Small Business Administration

The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center will send a copy of the Auction 1000 Application Procedures PN, including the Supplemental Final Regulatory Flexibility Analysis (SFRFA), to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

Paperwork Reduction Act

This document contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13.

Congressional Review Act

The Commission will send a copy of the Auction 1000 Application Procedures PN, including the SFRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

I. GENERAL INFORMATION

A. Introduction

1. In the Auction 1000 Bidding Procedures PN, 80 FR 61918, October 14, 2015, the Commission established the bidding procedures for both the reverse auction and the forward auction. Pursuant to the Commission's direction, the Auction 1000 Application Procedures PN establishes final application procedures for the reverse and forward auctions, provides detailed information, instructions, and deadlines for filing applications, and finalizes certain post-auction procedures established by the Commission's prior orders.

2. The Auction 1000 Application Procedures PN includes an attachment with the final appendices providing the technical details implementing the Commission's decisions in the Auction 1000 Bidding Procedures PN regarding the clearing target determination procedure, the final television channel assignment plan, and the assignment of frequency-specific licenses to forward auction clock-phase winning bidders, as well as algorithms for reverse and forward auction bid processing. These final technical appendices reflect modifications made to the detailed proposals contained in the appendices of the Auction 1000 Comment PN, 80 FR 4816, January 29, 2015, as a result of the Commission's decisions in the Auction 1000 Bidding Procedures PN. An additional attachment to the Auction 1000 Bidding Procedures PN provides information relating to the determination of opening prices for each bid option available to each eligible broadcast television licensee in the reverse auction, including the process for identifying "not-needed" stations. Finally, the Auction 1000 Application Procedures PN includes as an attachment information on the PEA-by-PEA spectrum reserve eligibility of nationwide providers. Opening prices for each bid option available to each eligible broadcast television licensee in the reverse auction will be released in a separate public notice in the near future. Additional data and information related to the broadcast incentive auction, including the final constraints and the associated supporting files, is being made available on the Auction 1000 website (<http://www.fcc.gov/auctions/1000>) contemporaneously with the release of the Auction 1000 Application Procedures PN.

B. Background of Proceeding

3. Auction 1000 (including Auctions 1001 and 1002) will be conducted pursuant to Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act), which authorizes incentive auctions to help meet the Nation's accelerating spectrum needs and requires the Commission to conduct a broadcast television spectrum incentive auction. The Incentive Auction R&O, 79 FR 48411, August 15, 2014, established the framework for Auction 1000, including the 600 MHz Band Plan, the repacking of the broadcast television bands, the incentive auction process, and the post-incentive auction transition. The Commission established final procedures for determining the spectrum clearing target and bidding in the reverse and forward auctions in the Auction 1000 Bidding Procedures PN. The Auction 1000 Application Procedures PN, the Prohibited Communications PN, 80 FR 63125, October 19, 2015, and the Auction 1000 Bidding Procedures PN, together establish the final auction procedures for the incentive auction. In addition to the Incentive Auction R&O and these procedures public notices, the Commission has released a number of other decisions in this proceeding regarding the incentive auction and the repacking process.

4. The information and deadlines the Bureau announced in the Auction 1000 Application Procedures PN also implement the Commission's general competitive bidding rules in part 1, subpart Q of the Code of Federal Regulations. The Commission made significant changes to the rules applicable to the forward auction in the Part 1 R&O, 80 FR 56764, September 18, 2015. Potential bidders in Auction 1000, particularly those interested in Auction 1002, also should make themselves familiar with the decisions in the Part 1 R&O.

II. APPLYING TO PARTICIPATE IN THE REVERSE AUCTION

5. Licensees of commercial and noncommercial educational (NCE) full power and Class A television stations (eligible broadcast licensees) identified in the attached Final Baseline (Appendix I of Attachment 2 in the Public Notice) may apply to participate in the reverse auction. On its application, an eligible broadcast licensee will have up to three bid options depending on its pre-auction band: (1) go

off-air (available to all stations); (2) move to a Low-VHF channel (available to UHF or High-VHF stations); and (3) move to a High-VHF channel (available only to UHF stations). An applicant that intends to relinquish its spectrum usage rights in order to share a channel with a station that will remain on the air following the auction will bid to go off-air.

A. Applicable Rules and Disclaimers

i. Relevant Authority

6. Section 6403(a) of the Spectrum Act, codified at 47 U.S.C. 1452(a), authorizes the reverse auction to determine the amount of compensation that each eligible broadcast licensee would accept in return for voluntarily relinquishing some or all of its broadcast television spectrum usage rights. In the Incentive Auction R&O, the Commission adopted rules and policies for the reverse auction. More recently, the Commission developed detailed bidding procedures necessary to govern the reverse auction process in the Auction 1000 Bidding Procedures PN.

7. Prospective applicants must familiarize themselves thoroughly with the Commission's competitive bidding rules for the reverse auction. As many of the reverse auction pre-auction procedures and application requirements are substantially similar to the Commission's procedures and requirements for typical spectrum license auctions, prospective reverse auction applicants should also familiarize themselves with the Commission's decisions in proceedings regarding its general competitive bidding procedures and application requirements. Prospective bidders should also familiarize themselves with the Commission's rules relating to channel sharing, media ownership, post-incentive auction licensing and operation, and rules relating to applications, environmental review, practice and procedure. All bidders must also be thoroughly familiar with the procedures, terms and conditions contained in the Incentive Auction R&O, the Auction 1000 Bidding Procedures PN, the Prohibited Communications PN, the Auction 1000 Application Procedures PN, other public notices and/or decisions in this proceeding, and any future public notices and/or decisions that may be issued in this proceeding, as well as any other relevant public notices and/or decisions issued by the Commission relating to the incentive auction.

8. The terms contained in the Commission's rules, relevant orders, and public notices are not negotiable. The Commission may amend or supplement the information contained in its public notices at any time, and will issue public notices to convey new or supplemental information to applicants. It is the responsibility of all applicants to remain current with all Commission rules and with all public notices pertaining to this auction. Copies of incentive auction-related Commission documents, including public notices, can be retrieved from the Auction 1000 website at <http://www.fcc.gov/auctions/1000>. Additionally, documents are available at the FCC's headquarters located at 445 12th Street S.W., Washington, DC 20554 during normal business hours.

ii. Due Diligence

9. The Bureau reminds each potential bidder that it is solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the bid(s) it submits in the reverse auction. An applicant should perform its due diligence research and analysis before applying to participate in the reverse auction, as it would with any business decision. Each reverse auction bidder in Auction 1001 should continue its research and analysis throughout the auction. In particular, the Bureau strongly encourages each potential bidder to review all Commission orders and public notices establishing rules and policies for the incentive auction. Additionally, each potential bidder should perform technical analyses to assure itself that, should the Commission accept its bid to relinquish spectrum usage rights, the bidder will be able to relocate, build, and operate its facilities, if applicable, in compliance with all applicable technical and regulatory requirements. The Bureau also strongly encourages each applicant to keep apprised of pending administrative or judicial proceedings, including enforcement proceedings and non-final license validity proceedings or downgrade orders that might affect its decision to offer a particular station in the auction. In addition, applicants should be aware that future administrative or judicial proceedings may affect broadcast television stations generally or individually.

10. The due diligence considerations mentioned in the Auction 1000 Application Procedures PN does not comprise an exhaustive list of steps that should be undertaken prior to participating in this auction. As in past spectrum license auctions, the burden is on the potential bidder to determine how much research to undertake, depending upon specific facts and circumstances related to its interests, and to undertake its own assessment of the relevance and importance of information gathered as part of its due diligence efforts. In addition, each reverse auction applicant will be required to acknowledge that it accepts responsibility for its bids and will not attempt to place responsibility for its bids on either the Commission or the information provided by third parties as part of the Commission's extensive outreach and education efforts. An auction applicant's failure to include these or any other required certifications in its auction application by the applicable filing deadline would render its application unacceptable for filing, and its application would be dismissed with prejudice.

iii. Red Light Rule

11. The Commission's rules, including a provision referred to as the "red light rule," implement the Commission's obligation under the Debt Collection Improvement Act of 1996 to aggressively collect debts owed to the Commission. Under the red light rule, the Commission will not process applications and other requests for benefits by parties that owe non-tax debt to the Commission. Absent payment or waiver of the red light rule, eligible broadcast licensees that owe debt to the Commission would not be permitted to participate in the reverse auction.

12. Robust broadcaster participation is critical to the success of the incentive auction. Recognizing that, the Commission expressly committed to removing barriers to encourage broadcasters to participate in the reverse auction. Consistent with that commitment, in order to encourage broadcaster participation in the reverse auction, the Bureau waives the red light rule for the limited purpose of permitting any eligible broadcast licensee that is red lighted for debt owed to the Commission at the time it submits a reverse auction application to participate in the reverse auction, subject to certain conditions. Additionally, the Bureau recognizes that a reverse auction applicant may incur debt to the Commission

after submission of its application, and may fail to pay the debt when due. Accordingly, in order to participate in the auction, each reverse auction applicant will be required to certify in its application that it (1) acknowledges its liability to the Commission for any debt owed to the Commission that the applicant incurred before, or that it may incur after, the reverse auction application deadline, including all accrued interest, penalties and costs, and that the debt will continue to accrue interest, penalties and costs until paid; and (2) agrees that the Commission may pay all debt owed by the applicant to the Commission from the applicant's share of auction proceeds. As noted by the Bureau, this waiver is limited. It does not waive or otherwise affect the Commission's right or obligation to collect any debt owed to the Commission by an eligible broadcast licensee by any means available to the Commission, including set off, referral of debt to the United States Treasury for collection and/or red lighting other applications or requests for benefits filed by an eligible broadcast licensee.

13. The Bureau will also require each reverse auction applicant to certify its agreement that if an appeal of, or request for waiver or compromise of, any debt owed by the applicant to the Commission is pending at the conclusion of the incentive auction, the Commission may withhold so much of the applicant's share of the auction proceeds as is necessary to pay the debt in full, including accrued interest, penalties and costs, until issuance of a final non-appealable decision regarding the debt or waiver or compromise request, and may then pay the debt from the applicant's withheld share. Auction funds held to pay such debt will be held in accordance with the provisions of paragraph 48 of the Auction 1000 Application Procedures PN.

14. The Bureau advises potential applicants to review their own records as well as the Commission's Red Light Display system to determine whether they owe non-tax debt to the Commission, and to do so periodically during the incentive auction. The Bureau also encourages eligible broadcast licensees to resolve and pay all outstanding debts to the Commission as soon as possible to avoid the accrual of interest, penalties and costs on unpaid debt.

iv. Use of Auction System

15. Bidders will be able to participate in Auction 1001 over the Internet using the Commission's bidding system (Auction System). The Commission makes no warranty whatsoever with respect to the Auction System. In no event shall the Commission, or any of its officers, employees, or agents, be liable for any damages whatsoever (including, but not limited to, loss of business profits, business interruption, loss of business information, or any other loss) arising out of or relating to the existence, furnishing, functioning, or use of the Auction System. Moreover, no obligation or liability will arise out of the Commission's technical, programming, or other advice or service provided in connection with the Auction System.

v. Fraud Alert

16. As is the case with many business opportunities, some unscrupulous parties may attempt to use Auction 1001 to deceive and defraud unsuspecting eligible broadcast licensees. **Every eligible broadcast licensee is responsible for monitoring whether any applications have been filed for its license(s) in order to assure that only authorized applications are filed.** All licensees of eligible facilities recently completed a Form 2100 Schedule 381 Pre-Auction Technical Certification for each eligible facility using the Commission's new Licensing and Management System (LMS). At that time, if that licensee had more than one FCC Registration Number (FRN) associated with the eligible facility, LMS required the licensee to choose one FRN and one related password to associate with that facility. **Individuals in possession of this FRN and the related password will be able to file an application to participate in the reverse auction on behalf of the licensee. Therefore, the Bureau urges all licensees to maintain the integrity of their FRN and related password by regularly changing their password, and to monitor the auction filing system to assure that no unauthorized filings are made.** Because the Bureau will keep the identity of all reverse auction participants confidential, the licensee must review the auction filing system to become aware of fraudulent or unauthorized reverse auction filings rather than relying on review of a publicly released list of participants. **Licensees that**

become aware of an unauthorized filing should notify the Commission immediately in writing by e-mail to auction1001@fcc.gov.

B. Auction Specifics

i. Auction Title and Start Date

17. The reverse portion of the incentive auction will be referred to as “Auction 1001 – Broadcast Television Spectrum Incentive Reverse Auction.” The incentive auction will begin on March 29, 2016, with the deadline for reverse auction applicants to commit to an initial bid option in Auction 1001.

18. Reverse auction bidders will be informed of the initial schedule of bidding rounds, including the time each round will start and finish and the number of rounds per day, when they are informed that they are qualified to bid.

ii. Auction 1001 Dates and Deadlines

19. The following dates and deadlines apply: (1) the pre-auction process tutorial will be available (via Internet) on November 17, 2015; (2) the reverse auction application (FCC Form 177) filing window opens on December 1, 2015 (12:00 noon ET); (3) the reverse auction application (FCC Form 177) filing window deadline is on December 18, 2015 (6:00 p.m. ET); (4) the bidding and post-auction process tutorial will be available (via Internet) on February 29, 2016; (5) the initial commitment deadline is on March 29, 2016 (6:00 p.m. ET); (6) the initial clearing target and band plan will be announced three to four weeks after the initial commitment deadline; (7) the specific date for the mock auction(s) will be provided to each applicant that is qualified to bid by confidential status letter after the initial clearing target is announced; and (8) the specific date for which bidding in the clock round will begin will be provided to each applicant that is qualified to bid by confidential status letter after the initial clearing target is announced.

iii. Requirements for Qualifying to Bid

20. Eligible broadcast licensees wishing to qualify to bid in the clock rounds of Auction 1000 must: (1) Submit an auction application (FCC Form 177) electronically prior to 6:00 p.m. ET, on December 18, 2015, following the electronic filing instructions that will be provided in a separate public notice to be released in the near future (FCC Form 177 Instructions); (2) Make an initial commitment prior to 6:00 p.m. ET, on March 29, 2016, following the procedures and instructions that will be set forth in the FCC Form 177 Instructions; and (3) Comply with all provisions outlined in the Auction 1000 Application Procedures PN, the Auction 1000 Bidding Procedures PN, the Incentive Auction R&O, and other applicable Commission rules and policies.

iv. Auction Delay, Suspension, or Cancellation

21. By public notice or by announcement during the reverse auction, the auction may be delayed, suspended, or cancelled in the event of a natural disaster, technical obstacle, network disruption, evidence of an auction security breach or unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and efficient conduct of the competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to resume the competitive bidding starting from the beginning of the current or from some previous round or cancel the competitive bidding in its entirety. The Bureau emphasizes that it will exercise this authority solely at its discretion.

C. Reverse Auction Application (FCC Form 177)

22. The applicant to participate in the reverse auction (Auction 1001) must be the broadcast television licensee that holds the spectrum usage rights being offered for relinquishment. A licensee that holds licenses for multiple eligible stations that it wishes to offer in the auction may include all of its eligible stations in a single application, as long as it identifies each such station and provides the required information for each. The application to participate in Auction 1001 is referred to as FCC Form 177 and provides information used to determine whether the applicant is legally qualified to participate in the

reverse auction to relinquish some or all of its spectrum usage rights in exchange for a portion of the incentive auction proceeds. Submitting an FCC Form 177 is the first of two steps in the Commission's process to qualify to bid in the reverse auction.

23. Each licensee seeking to relinquish spectrum usage rights in Auction 1001 must file an auction application electronically via the Auction System prior to 6:00 p.m. ET on December 18, 2015, following the procedures that will be provided in the FCC Form 177 Instructions. All eligible broadcast licensees, including reverse auction applicants, are subject to the Commission's rules prohibiting certain communications beginning at the deadline for filing.

24. Applicants bear full responsibility for submitting accurate, complete and timely reverse auction applications. Each applicant must make a series of certifications under penalty of perjury on its FCC Form 177 related to the information provided in its application and its participation in the auction, and must confirm that it is in compliance with all statutory and regulatory requirements for participation in the reverse auction, including any requirements with respect to stations identified in the auction application.

25. An applicant submitting an application in Auction 1001 to relinquish spectrum usage rights for a Class A or NCE television station must submit additional information about the relevant license. Specifically, if the license is for a Class A television station, the applicant must certify under penalty of perjury that it is and will remain in compliance with the ongoing statutory eligibility requirements to remain a Class A station. If the license is for an NCE station, the applicant must specify whether it operates on a reserved or non-reserved channel.

26. The submission of an FCC Form 177 (and any amendments thereto) constitutes a representation by the individual certifying the application that he or she is authorized to do so on behalf of the applicant, that he or she has read the form's instructions and certifications, and that the contents of the application, its certifications, and any attachments are true and correct. If the individual certifying the FCC Form 177 is not an officer, director, board member, or controlling interest holder of the applicant,

the applicant must be able to provide evidence that such individual has the authority to bind the applicant. Submission of any false certification(s) to the Commission may result in penalties, including monetary forfeitures, license forfeitures, denial or dismissal of applications with respect to Auction 1001, ineligibility to participate in future auctions, and/or criminal prosecution.

27. In the following sections, the Bureau discusses additional details regarding certain information required to be submitted in the FCC Form 177. However, each applicant should read carefully the forthcoming FCC Form 177 Instructions and consult the Commission's rules to ensure that, in addition to the materials discussed in the Public Notice, all the information required to be submitted in an auction application is included within its application.

i. Authorized Bidders

28. As part of the auction application, the applicant must identify at least one, but no more than three, person(s) authorized to place bids in the auction. There may be circumstances in which reverse auction applicants might share the same authorized bidder. The individual submitting the application must certify that the applicant agrees that any bid submitted is an irrevocable, binding offer by the applicant to relinquish the relevant spectrum usage rights at the offered price.

ii. Identifying Relinquishment Bid Option(s) for Each Eligible Facility

29. Background. Eligible broadcast licensees may bid to voluntarily relinquish the spectrum usage rights associated with station facilities identified in the attached Final Baseline. A station may be included in the Final Baseline notwithstanding that its license has been cancelled, has expired, is subject to a revocation order (collectively, a license validity proceeding) or, for a Class A station, is subject to a downgrade order. Such a station will no longer be eligible to be offered for relinquishment in the reverse auction, however, if that license validity proceeding or downgrade becomes final and non-reviewable by December 18, 2015. An eligible broadcast licensee may offer to relinquish the spectrum usage rights

associated with a station subject to a license validity proceeding or Class A downgrade order that has not become final and non-reviewable by that deadline subject to certain conditions.

30. Application Procedures. For each station that the applicant includes on its application, the applicant must identify one or more bid options, corresponding to the relinquishment options that the applicant wishes to be able to consider for that station in the reverse auction. The bid options are described in the preceding section and in more detail in the Auction 1000 Bidding Procedures PN.

31. An applicant has no obligation to bid for the options it identifies in its application; if the applicant plans to bid in the clock rounds, it will need to commit to one of its identified bid options prior to the deadline to submit an initial commitment. However, an applicant should take care when selecting bid options in its auction application. As determined in the Auction 1000 Bidding Procedures PN, if an applicant does not identify a particular bid option for a specific station on its auction application, that applicant will not be able to bid for that option for that station, either in making its initial commitment or in the clock bidding rounds. An applicant wishing to preserve flexibility to bid for all options in the auction should select all options available to each station.

iii. Ownership Disclosure Requirements

32. Each applicant must comply with the applicable Part 1 ownership disclosure standards and provide information required by 47 CFR 1.2204 and 1.2112(a). Specifically, in completing the FCC Form 177, an applicant will be required to fully disclose information on the real party- or parties-in-interest and the ownership structure of the applicant, including both direct and indirect ownership interests of 10 percent or more, as prescribed in 47 CFR 1.2112. Each applicant is responsible for ensuring that information submitted in its application is complete and accurate.

33. In certain circumstances, an applicant's most current ownership information on file with the Commission, if in an electronic format compatible with the FCC Form 177 (such as information submitted in an FCC Form 175 filed from a previous auction) will automatically be entered into the

applicant's auction application. Each applicant must carefully review any information automatically entered in its FCC Form 177 to confirm that all information supplied on the application is complete and accurate as of the application filing deadline. The FCC Form 323 is not compatible with the FCC Form 177; therefore, information provided to the Commission on that form will not be automatically entered into an applicant's auction application.

34. Among other information, applicants must supply identifying information about the applicant, including the applicant's name and address, if the applicant is an individual; the name and address of the corporate office and the name and title of an officer or director if the applicant is a corporation; the name, citizenship, and address of all general partners, and, if a general partner is not a natural person, then the name and title of a responsible person for that partner, if the applicant is a partnership; the name and address of the trustee, if the applicant is a trust; and if the applicant is none of the above, it must identify and describe itself and its principals or other responsible persons. Additionally, for non-profit entities, applicants must list the name, address, and citizenship of each member of the governing board and of any educational institution or governmental entity with a controlling interest in the applicant, if applicable.

iv. National Security Certification

35. Section 6004 of the Spectrum Act, codified at 47 U.S.C. 1404, prohibits a person who has been, for reasons of national security, barred by any agency of the Federal Government from bidding on a contract, participating in an auction, or receiving a grant from participating in any auction that is required or authorized to be conducted pursuant to the Spectrum Act. In the Incentive Auction R&O, the Commission adopted a rule to implement this mandate by adding a certification to the various other certifications that a reverse auction applicant must make in its application. Pursuant to this rule, any applicant seeking to participate in Auction 1001 must certify in its FCC Form 177, under penalty of perjury, that the applicant and all of the related individuals and entities required to be disclosed on its application are not person(s) who have been, for reasons of national security, barred by any agency of

the Federal Government from bidding on a contract, participating in an auction, or receiving a grant, and who are thus statutorily prohibited from participating in such a Commission auction.

v. Additional Information and Certifications Required From Applicants Intending to Channel Share

36. Background. The Commission adopted rules and procedures concerning channel sharing arrangements in the Channel Sharing R&O, the Incentive Auction R&O, and the First Order on Reconsideration. An eligible broadcast licensee interested in entering into a channel sharing arrangement should familiarize itself with those orders and the requirements adopted therein, as well as any future orders or public notices concerning channel sharing.

37. Under the Commission's rules, a reverse auction bidder that is interested in relinquishing its spectrum usage rights on its current channel in order to share another licensee's channel following the auction, and that has entered into a channel sharing agreement (CSA) before the reverse auction application filing deadline (pre-auction CSA), must submit an executed copy of the CSA with its auction application. Applicants who have entered into a pre-auction CSA must also make several certifications under penalty of perjury. The rules also provide that an applicant that executes a pre-auction CSA and submits a copy of the executed agreement with its auction application will be covered under a limited exception to the rule prohibiting communications regarding bids and bidding strategies during the period defined by the rule. This exception will allow the applicant to discuss bids and bidding strategies with the other party or parties to the pre-auction CSA to the extent covered by this exception, subject to the limitations outlined in the Prohibited Communications PN. As discussed in the Prohibited Communications PN, applicants may choose not to avail themselves of the exception in order to protect against rule violations. Applicants will be able to provide information with their applications regarding relevant firewalls or other safeguards established to protect against rule violations, although there is no requirement that they do so.

38. Additionally the Commission's rules allow winning reverse auction bidders that relinquish their spectrum usage rights in the reverse auction to enter into CSAs after the completion of the incentive auction (post-auction CSAs), provided that they (1) indicate in their pre-auction applications that they have a present intent to find a channel sharing partner after the auction (the expression of present intent will not bind an applicant to seek out a channel sharing partner or enter into a post-auction CSA); and (2) execute and implement their post-auction CSAs by the date on which they would otherwise be required to relinquish their licenses. The channel sharing exception to the rule prohibiting certain communications will not cover applicants that indicate their present intent to enter into a post-auction CSA and do not submit a pre-auction CSA.

39. Application Requirements. A channel "sharee" applicant that intends to relinquish spectrum usage rights in order to share another station's channel post-auction will be required to indicate on its auction application whether it has entered into a CSA prior to the reverse auction application filing deadline, and/or has a present intent to enter into a CSA after the conclusion of the incentive auction and release of the Channel Reassignment PN. An applicant that indicates it has entered into a pre-auction CSA must identify on its auction application the parties to the CSA, including the sharer or host station, any other sharee(s), and the television channel the applicant has agreed to share. An applicant that submits an executed CSA may also express an intention to enter into a CSA after the conclusion of the incentive auction. Doing so could allow the licensee to seek a different channel sharing partner following the auction.

40. An applicant submitting a copy of an executed CSA with its auction application should not redact any portion of the agreement. Unless required by law, the Commission will keep the copy of the executed CSA submitted with the auction application from being made public, even if such an applicant becomes a winning bidder. Winning reverse auction channel sharing bidders will be required to include a copy of their CSA with their post-auction construction permit application (LMS Form 2100-

Schedules A and E), which will be publicly available, and the Bureau will allow applicants to redact confidential or proprietary terms for the purposes of that submission.

a. Channel Sharing Certifications

41. An applicant with a pre-auction CSA will be required to certify under penalty of perjury that: (1) the CSA is consistent with all Commission rules and policies, and that the applicant accepts any risk that the implementation of the CSA may not be feasible for any reason, including any conflict with requirements for operation on the shared channel; (2) the proposed channel sharing arrangement will not trigger a new combination that violates the multiple ownership rules, set forth in 47 CFR 73.3555 based on facts at the time the application is submitted; (3) its operation from the shared channel facilities will not result in a change to its Designated Market Area; and (4) it can meet the community of license coverage requirement set forth in 47 CFR 73.625(a) from the shared channel facilities or, if not, that the new community of license for its shared channel facilities either meets the same or a higher allotment priority as its current community; or, if no community meets the same or higher allotment priority, provides the next highest priority. With respect to certification (2), a sharee must include a showing of compliance with the multiple ownership rules in its construction permit application if operation from the shared site triggers a new multiple ownership combination that is subject to those rules regardless of whether an arrangement is entered into pre- or post-auction. For pre-auction arrangements, the showing must be based on the facts at the time the sharee filed its application to participate in the reverse auction. For post-auction arrangements, the showing must be based on the facts as of the filing of the construction permit application.

42. A prospective sharer station under a pre-auction CSA need not submit an application to participate in the reverse auction unless it intends to participate in bidding to offer some or all of its spectrum usage rights for relinquishment. Examples of this would be where a sharer with a UHF channel bids to move to the VHF band, or a CSA in which the sharee is defined as the party that becomes the provisionally winning station first during the bidding rounds. However, it must make the

first two certifications listed in the immediately preceding paragraph. Additionally, if the sharer is a Class A station it must certify under penalty of perjury that it is and will remain in compliance with the ongoing statutory eligibility requirements to remain a Class A station. Also, a sharer station must certify that the CSA submitted by the reverse auction applicant is a true, correct, and complete copy of the CSA between the parties. The FCC Form 177 Instructions will provide a form with the required certifications that a sharer must sign and give to the sharee(s) to upload into the sharee(s)'s auction application.

43. The channel sharing certifications must be made by persons authorized to bind the sharee and sharer, respectively. The Bureau notes that the person who makes the channel sharing certifications for the sharee may be a different person than the person who makes all other required certifications in the sharee's reverse auction application.

vi. Provisions Regarding Pending Proceedings

44. Background. The Commission determined that eligible broadcast licensees with pending enforcement matters or license renewal applications that raise enforcement issues whose bids may result in their holding no broadcast licenses, as well as eligible broadcast licensees of facilities subject to a non-final license validity proceeding or downgrade order, may participate in the reverse auction subject to any incentive payment being held until the pending proceedings are finally resolved. This section describes the additional information that such licensees must provide on their reverse auction applications and the process by which the Commission will hold their incentive payments pending resolution of these types of proceedings.

45. Application Procedures. Each applicant that selects going off-air as a bidding option for a station must indicate on its auction application whether or not it will hold any other broadcast licenses in the event that all of the bids that it might place to go off-air are accepted. If it will hold another broadcast license in such an event, then the applicant must certify that the applicant will remain subject to any license renewal, as well as any enforcement action, pending at the time of the auction application deadline against the station that may go off-air as a result of the auction. If it will not hold any other

broadcast licenses in such an event, then the applicant must certify its agreement (1) that pursuant to the Commission's announced procedures for resolving such matters in connection with this auction, the Commission may withhold a portion of the share of auction proceeds for the station, if any, pending final determination of any FCC liabilities with respect to the station and such portion may be applied towards the satisfaction of such liabilities; and (2) that the applicant remains subject to the Commission's jurisdiction and authority to impose enforcement or other FCC liabilities with respect to the station, notwithstanding the surrender of its license for the station.

46. Each applicant must also indicate for each license identified in its application whether the license is subject: (1) to a non-final revocation order; or (2) has expired or been cancelled and is subject to a non-final license cancellation order. If such an order becomes final and non-reviewable before the deadline for filing, the former licensee is not eligible to participate. Likewise, an applicant that includes a Class A television station in its application must indicate whether that station is subject to a non-final downgrade order. If such a downgrade order becomes final before the deadline for filing, the licensee is no longer eligible to participate. An applicant that indicates that a license in its application is subject to any of the foregoing revocation, cancellation, or downgrade proceedings must certify in its application that it agrees with the Commission's announced procedures to withhold all of any incentive payment for the station pending the final outcome of the proceeding.

47. In the confidential letter informing an applicant of the initial status of its auction application, the Wireless Telecommunications and Media Bureaus (collectively, the Bureaus) will inform the applicant of any potential FCC liabilities with respect to a particular station that cannot be resolved before the initial commitment deadline. In addition, the Bureaus will indicate the amount of auction proceeds that the Commission will withhold should the applicant relinquish its license(s) as a result of the auction and therefore otherwise no longer be subject to the Commission's jurisdiction. The amount withheld will represent the maximum necessary to cover a potential forfeiture based on enforcement matters existing at that time. This process ensures that the applicant will be aware of any

withholding before making an initial commitment to relinquish its spectrum usage rights. The applicant's certifications ensure that an applicant whose stations may go off-air as a result of the auction will not thereby avoid any liability to the public and owed to the Commission.

48. All auction proceeds held (1) to cover potential enforcement liabilities, (2) because of an ongoing license validity or downgrade proceeding, or (3) until final resolution of an appeal of a debt determination or a compromise or waiver request will be held by the Commission in the U.S. Treasury. As determined by the Commission in the Incentive Auction R&O, amounts held following the auction will be released to the broadcaster or applied towards any forfeiture costs and other debt the broadcaster owes to the Commission, as appropriate in light of the final resolution of the relevant issues. This procedure is consistent with the Commission's reverse auction competitive bidding rules and with its proposal in the Auction 1000 Comment PN that auction proceeds be held in the U.S. Treasury pending resolution of outstanding enforcement proceedings, license renewal proceedings, or other potential eligibility impediments.

vii. Modifications to FCC Form 177

a. Only Minor Modifications Allowed

49. After the initial FCC Form 177 filing deadline, an Auction 1001 applicant will be permitted to make only minor changes to its application. Examples of minor changes include the deletion or addition of authorized bidders (to a maximum of three), revision of addresses and telephone numbers of the applicant, its responsible party, and its contact person, and change in the applicant's selected bidding preference (electronic or telephonic). Major modification to an FCC Form 177 (e.g., add or remove a license identified for relinquishment, change of relinquishment option for a particular license, certain changes in ownership that would constitute an assignment or transfer of control of the applicant, change any of the required certifications, change the certifying official, add a new CSA or change a party to a CSA, change in applicant's legal classification that results in a change in control) will not be permitted after the initial FCC Form 177 filing deadline. If an amendment reporting changes is a

“major amendment,” as defined in 47 CFR 1.2204(d)(3), the major amendment will not be accepted and may result in the dismissal of the application.

b. Duty to Maintain Accuracy and Completeness of FCC Form 177

50. Pursuant to 47 CFR 1.65 and 1.2204(d)(5) each applicant has a continuing obligation to maintain the accuracy and completeness of information furnished in a pending application, including a pending application to participate in the reverse auction. An Auction 1001 applicant must furnish additional or corrected information to the Commission within five days after a significant occurrence, or amend its FCC Form 177 no more than five days after the applicant becomes aware of the need for the amendment. An applicant's obligation to make modifications to a pending application in order to provide additional or corrected information continues in accordance with the Commission's rules. An applicant is obligated to amend its pending application even if a reported change is considered to be a major modification that may result in the dismissal of the application.

c. Submitting Modifications to FCC Form 177

51. If an applicant needs to make permissible minor changes to its FCC Form 177, or must make changes in order to maintain the accuracy and completeness of its application pursuant to 47 CFR 1.65 and 1.2204(d)(5), during a time when the system is available to the applicant for purposes of making the type of change(s) required, such changes should be made electronically to its FCC Form 177 using the Auction System. For the change to be submitted and considered by the Commission, an applicant must click on the SUBMIT button. After the revised application has been submitted, a confirmation page will be displayed stating the submission time, submission date, and a unique file number.

52. An applicant cannot use the Auction System outside of the initial and resubmission filing windows to make changes to its FCC Form 177 for other than administrative changes (e.g., changing responsible party or contact person name and related information, adding or deleting an authorized

bidder). If other permissible minor changes need to be made, or if changes are required pursuant to 47 CFR 1.65 and 1.2204(d)(5), outside of these windows, the applicant must submit a letter briefly summarizing the changes to its FCC Form 177 by e-mail to auction1001@fcc.gov. The e-mail summarizing the changes must include a subject or caption referring to Auction 1001 and the name of the applicant, for example, “Re: Changes to Auction 1001 Auction Application of XYZ Corp.” Any attachments to e-mail must be formatted as Adobe® Acrobat® (PDF) or Microsoft® Word documents. Questions about FCC Form 177 amendments should be directed to the Auctions and Spectrum Access Division at (202) 418-0660. An applicant that submits its changes in this manner must subsequently update its FCC Form 177 in the Auction System once it is open and available to applicants. Moreover, after the initial filing window has closed, the Auction System will not permit an applicant to make certain permissible changes itself (e.g., correcting a misstatement of the applicant’s legal classification). This is the case because certain fields on the FCC Form 177 will no longer be available to, or changeable by, the applicant after the initial application filing window closes. If an applicant needs to make a permissible minor change that cannot be made using the Auction System, it must submit a written request by e-mail to auction1001@fcc.gov requesting that the Commission manually make the change on the applicant’s behalf. The applicant must then recertify its application by clicking on the SUBMIT button to confirm the change.

53. As with the FCC Form 177, any application amendment and related statements of fact must be certified by an authorized representative of the applicant with authority to bind the applicant. Applicants should note that submission of any such amendment or related statement of fact constitutes a representation by the person certifying that he or she is an authorized representative with such authority, and that the contents of the amendment or statement of fact are true and correct.

54. Applicants must not submit application-specific material through the Commission’s Electronic Comment Filing System. Further, as discussed in the [Auction 1000 Prohibited Communications PN](#), parties submitting information related to their applications should use caution to

ensure that their submissions do not contain confidential information or communicate information that would violate 47 CFR 1.2205. A party seeking to submit, outside of the Auction System, information that might reflect non-public information, such as a party's decision to submit an application, any applicant's name, or any other information identifying a reverse auction applicant, should consider submitting any such information along with a request that the filing or portions of the filing be withheld from public inspection until the end of the prohibition of certain communications pursuant to 47 CFR 1.2205.

D. Auction 1001 Process

i. Online Auction Tutorials and Training

55. Prior to the deadline to apply to participate in the reverse auction, the Commission will provide, in various formats, detailed educational information to would-be participants and channel sharers. Among other things, the Commission will hold workshops/webinars addressing the reverse auction application and bidding processes. In addition, Commission staff will provide two auction tutorials for prospective bidders to walk through the auction process and the application and bidding screens. The first auction tutorial will focus on the application process and the second tutorial will focus on the bidding process. These online tutorials will provide information about pre-auction procedures, completing reverse auction applications, auction conduct, the auction bidding system, and auction rules. The application tutorial will be available on the Auction 1001 web page no later than November 17, 2015, and the bidding process tutorial will be available no later than February 29, 2016.

56. Based on the Bureau's experience with past auctions, parties interested in participating in this auction will find the interactive, online tutorials an efficient and effective way to further their understanding of the auction process. The tutorials will allow viewers to navigate the presentation outline, review written notes, listen to audio recordings of the notes, and search for topics using a text search function. Additional features of this web-based tool include links to auction-specific Commission releases, e-mail links for contacting Commission licensing and auctions staff, and screen shots of the

online application and bidding system. The tutorials will be accessible through a web browser with Adobe Flash Player.

57. The auction tutorials will be accessible from the Commission's Auction 1001 web page at <http://www.fcc.gov/auctions/1001> through an "Auction Tutorial" link under the "Education" tab. Once posted, these tutorials will remain available and accessible anytime for reference in connection with the procedures outlined in Auction 1000 Application Procedures PN.

ii. FCC Form 177– Due Prior to 6:00 p.m. ET on December 18, 2015

58. As the first step to qualify to bid in the clock rounds of the reverse auction, an applicant must follow the procedures provided in the forthcoming FCC Form 177 Instructions to submit an application to participate in the reverse auction (FCC Form 177) electronically via the Auction System.

59. An applicant may file its application to participate in Auction 1001 during the filing window that will open at noon ET on December 1, 2015, and close at 6:00 p.m. ET on December 18, 2015. The application must be submitted **prior to** the closing of the filing window. **Late applications will not be accepted.** No application fee is required. The Bureau strongly encourages applicants to file early. Potential applicants are responsible for allowing adequate time for filing their applications. There are no limits or restrictions on the number of times an application can be updated or amended until the filing deadline on December 18, 2015.

60. An applicant must always click on the SUBMIT button on the "Certify & Submit" screen to successfully submit its FCC Form 177 and any modifications; otherwise the application or changes to the application will not be received or reviewed by Commission staff. Additional information about accessing, completing, and viewing the FCC Form 177 will be included in the FCC Form 177 Instructions. FCC Auctions Technical Support is available at (877) 480-3201, option nine; (202) 414-1250; or (202) 414-1255 (text telephone (TTY)); hours of service are Monday through Friday, from 8:00

a.m. to 6:00 p.m. ET. In order to provide better service to the public, all calls to Technical Support are recorded.

iii. Application Processing

61. After the deadline for filing reverse auction applications to participate, Commission staff will process all timely submitted applications to determine whether the application is complete as to each station the applicant identified to relinquish spectrum usage rights. Subsequently, the Bureau will send confidential letters to the contact person listed on the applicant's FCC Form 177 identifying as to each station whether the application (1) is complete, (2) has been rejected, or (3) is incomplete or deficient because of minor defects that may be corrected. The letter will include the deadline for resubmitting corrected applications and will inform the applicant of any potential FCC liabilities with respect to a particular station that cannot be resolved before the reverse auction. Applicants that fail to correct defects in their applications to participate by the deadline will have their applications dismissed with no opportunity for resubmission.

62. Applicants will be provided a limited opportunity to cure specified defects and to resubmit a corrected application. The Bureau cautions, however, that any application to participate that does not contain all of the certifications required pursuant to the Commission's rules cannot be corrected subsequent to the initial application filing deadline, and will be dismissed. During the resubmission period for curing defects, an auction application may be amended or modified to cure identified defects or to make minor amendments or modifications.

63. After the resubmission filing deadline, Commission staff will determine whether an applicant's resubmitted application is complete as to each station the applicant included in the application. The staff will send a confidential letter to the contact person listed in the FCC Form 177 notifying him or her of the final status of its application to participate in the reverse auction with respect to each station in the application. If the application is complete for one or more stations, the letter will contain information about how to submit an initial commitment for those complete stations which is the

second step in qualifying to bid in the clock rounds of the reverse auction. If the application is deemed not complete as to any particular station the applicant will be not be able to make an initial commitment for that station.

64. Commission staff will communicate only with an applicant's contact person or certifying official, as designated on the auction application, unless the applicant's certifying official or contact person notifies the Commission in writing that the applicant's counsel or other representative is authorized to speak on its behalf. In no event, however, will the FCC send auction registration materials to anyone other than the contact person listed on the FCC Form 177 or respond to a request for replacement registration materials from anyone other than the authorized bidder, contact person, or certifying official listed on the applicant's FCC Form 177. Authorizations may be sent by e-mail to auction1001@fcc.gov.

iv. Initial Commitment

65. As the second step to qualify to bid in the clock rounds of the reverse auction, an applicant that has submitted a timely and complete application must commit, at the opening price, to a preferred relinquishment option for each station that it intends to bid for in the reverse auction prior to 6:00 p.m. ET on March 29, 2016. For each station deemed complete, an applicant may only commit to a relinquishment option(s) that it identified for that station when initially submitting its auction application. An applicant will receive instructions on how to submit an initial commitment for such stations in the confidential letter that informs the applicant whether the station has been deemed complete.

66. An applicant's initial commitment to a relinquishment option constitutes an initial bid, and as such, is an irrevocable offer by the applicant to relinquish the relevant spectrum usage rights in exchange for the opening price offer for that bid option if that station is selected to be a winning station. An applicant that fails to commit to an initial relinquishment option for a given station by the deadline will not be qualified to bid in the clock rounds of the auction for that station. Applicants should

carefully review the Auction 1000 Bidding Procedures PN for further details concerning how the selection of a preferred option and a fallback option may affect its bidding options in the clock rounds.

67. Based on the initial commitments, the Auction System will determine an initial clearing target for the incentive auction. Once the initial clearing target has been determined, the Bureau will send a confidential letter to each reverse auction applicant to inform it of its status with respect to the clock rounds of the reverse auction. The letters will notify the applicant at the contact address provided in the Form 177, for each station included in the application, either that (1) the station is qualified to participate in the clock rounds of the reverse auction; (2) the station is not qualified because no initial commitment was made, and therefore, that station will be designated to be repacked in its pre-auction band; (3) the commitment(s) made by the applicant for the station could not be accommodated, and therefore, that station is not qualified and will be designated to be repacked in its pre-auction band; or (4) the Auction System determined that the station is not needed to meet the initial or any subsequent clearing target, and therefore, the station is not qualified and will be designated to be repacked in its pre-auction band.

v. Qualified Bidder Registration Materials

68. All qualified bidders in the reverse auction are automatically registered for the auction. The materials needed to participate in the clock rounds of the reverse auction will be distributed by overnight mail. The mailing will be sent to the contact person at the contact address listed in the FCC Form 177 and will include the SecurID® tokens that each authorized bidder will need to place bids, the auction system bidder's guide, and the Auction Bidder Line phone number.

69. Bidders qualified to bid in the reverse auction clock rounds that do not receive this registration mailing will not be able to submit bids. Therefore, if this mailing is not received by noon on five days prior to the mock auction, call the Auctions Hotline at (717) 338-2868. Receipt of this registration mailing is critical to participating in the auction, and each applicant is responsible for ensuring it has received all of the registration materials.

70. In the event that SecurID® tokens are lost or damaged, only a person who has been designated as an authorized bidder, the contact person, or the certifying official on the applicant's application to participate in the reverse auction may request replacements. To request replacement of these items, call Technical Support at (877) 480-3201, option nine; (202) 414-1250; or (202) 414-1255 (TTY).

vi. Remote Electronic Bidding

71. The Commission will conduct this auction over the Internet, and telephonic bidding will be available as well. All telephone calls are recorded. Only qualified bidders are permitted to bid. Each applicant should indicate its bidding preference—electronic or telephonic—on its FCC Form 177 application. In either case, each authorized bidder must have its own designated SecurID® token, which the Commission will provide at no charge. Each authorized bidder will be issued a unique SecurID® token. **For security purposes, the SecurID® tokens, the telephonic bidding telephone number, and the “Reverse Auction System Bidder’s Guide” are only mailed to the contact person at the contact address listed on the FCC Form 177.** Each SecurID® token is tailored to a specific auction and designated authorized bidder. SecurID® tokens issued for other auctions or obtained from a source other than the Commission will not work for Auction 1001.

vii. Mock Auction

72. All bidders qualified to bid in the clock rounds will be able to participate in a mock reverse auction prior to the start of the bidding, which will enable bidders to obtain hands-on experience with the Auction System. The mock auction will enable bidders to become familiar with the Auction System prior to the auction. The Bureau strongly recommends that all bidders participate in the mock auction.

73. The Bureau anticipates that it will need to conduct at least two mock auctions to accommodate the large number of broadcasters that it expects will qualify to bid in the reverse auction.

In the final confidential status letter, each qualified bidder will be notified of the date of the mock auction to which it has been assigned.

III. APPLYING TO PARTICIPATE IN THE FORWARD AUCTION

74. Auction 1002 will offer new, flexible-use licenses suitable for providing mobile broadband services, which will be licensed on a geographic area basis according to Partial Economic Areas (PEAs). As more fully explained in the Auction 1000 Bidding Procedures PN, Auction 1002 will consist of two phases—an ascending clock phase and an assignment phase.

A. Applicable Rules and Disclaimers

i. Relevant Authority

75. As more fully explained in the Auction 1000 Bidding Procedures PN, the Commission will conduct Auction 1002 pursuant to Title VI of the Spectrum Act. Prospective applicants for Auction 1002 must familiarize themselves thoroughly with the specific rules and policies adopted by the Commission to provide the necessary framework for the forward auction, including service rules relating to the 600 MHz Band, potential impairments and transition periods affecting the licenses offered in the auction, and rules relating to applications, environmental review requirements, practice and procedure. Prospective applicants must also familiarize themselves with the Spectrum Act, as well as the Commission's general competitive bidding rules in part 1, subpart Q of the Code of Federal Regulations, Commission decisions in proceedings regarding competitive bidding procedures and obligations of Commission licensees—particularly the Commission's recent Part 1 R&O—and with the procedures, terms, and conditions contained in the Auction 1000 Application Procedures PN, the Auction 1000 Bidding Procedures PN, the Auction 1000 Prohibited Communications PN, and any other public notices related to Auction 1000, including Auction 1002.

76. The terms contained in the Commission's rules, relevant orders, and public notices are not negotiable. The Commission may amend or supplement the information contained in its public

notices at any time, and will issue public notices to convey any new or supplemental information to applicants. It is the responsibility of all applicants to remain current with all Commission rules and with all public notices pertaining to this auction. Copies of most auction-related Commission documents, including public notices, can be retrieved from the FCC Auctions website at <http://wireless.fcc.gov/auctions>. Additionally, documents are available for public inspection and copying at the FCC's headquarters located at 445 12th Street S.W., Washington, DC 20554 during normal business hours.

ii. International Coordination

77. Potential bidders seeking licenses for geographic areas adjacent to the Canadian and Mexican borders should be aware that the use of some or all of the 600 MHz Band frequencies they acquire in the forward auction are subject to international agreements with Canada and Mexico. Potential bidders should be aware that, until such time as any new agreements between the United States, Mexico, and/or Canada can be made, wireless operations in the 600 MHz Band must not cause harmful interference to, and must accept harmful interference from, television broadcast operations in Mexico and Canada. As the Commission noted in the Incentive Auction R&O, it routinely works with the United States Department of State and Canadian and Mexican government officials to ensure the efficient use of the spectrum as well as interference-free operations in the border areas near Canada and Mexico. The Commission has finalized arrangements with Industry Canada (IC) and the Instituto Federal de Telecomunicaciones (IFT) that set forth a framework and common guidelines for repurposing TV spectrum for mobile broadband on both sides of the borders. These arrangements significantly reduce potential interference to future wireless operations in the border regions and provide assurance that mobile broadband services in the border markets will face less potential interference from Canadian or Mexican television broadcast stations. Pursuant to joint planning between the Commission and Industry Canada, and in light of Industry Canada's decision to repurpose the 600 MHz Band, the 138 and 144

megahertz clearing targets will not be considered in order to better harmonize the 600 MHz Band Plan between the two countries.

iii. Quiet Zones

78. Licensees that intend to operate base and fixed stations in the downlink portion of the 600 MHz Band in close proximity to Radio Astronomy Observatories must follow the procedures set forth in the Commission's rules.

iv. Due Diligence

79. A Commission spectrum auction represents an opportunity to become a Commission licensee, subject to certain conditions and regulations. A Commission auction does not constitute an endorsement by the Commission of any particular service, technology, or product, and the Commission makes no representations or warranties about the use of the spectrum offered in Auction 1002 for particular services. A Commission license does not constitute a guarantee of business success, and each applicant should therefore perform its due diligence research and analysis before proceeding, as it would with any new business venture, to ensure that any licenses won in this auction will be suitable for its business plans and needs.

80. Each potential bidder is solely responsible for investigating and evaluating all legal, technical, and marketplace factors and risks associated with the licenses that it is seeking in Auction 1002, evaluating the degree to which those factors and risks may have a bearing on the value of the licenses and/or affect the bidder's ability to bid on, otherwise acquire, or make use of such licenses, and conducting any technical analyses necessary to assure itself that, if it wins any license(s), it will be able to build and operate facilities in accordance with the Commission's rules. Each potential bidder's due diligence efforts should include, among other things: (1) reviewing all Commission orders and public notices establishing rules and policies for the 600 MHz Band, including but not limited to spectrum use during the Post-Auction Transition Period and potential impairments affecting certain licenses; (2)

conducting research to determine the existence of any pending administrative or judicial proceedings, including pending allocation rulemaking proceedings, that might affect its decision to participate in the auction; (3) performing (or refreshing previous) technical analyses; and (4) inspecting any prospective transmitter sites located in, or near, the service area for which it plans to bid and confirming the availability of such sites and their conformance with applicable federal, state, and local land use requirements. Each potential bidder must undertake its own assessment of the relevance and importance of information gathered as part of its due diligence efforts.

81. Applicants should bear in mind that the due diligence considerations mentioned in the Auction 1000 Application Procedures PN do not comprise of an exhaustive list of steps that should be undertaken prior to participating in this auction. As always, the burden is on the potential bidder to determine how much research to undertake, depending upon specific facts and circumstances related to its interests.

82. The Commission's statutory authority under the Communications Act to add, modify and eliminate rules governing spectrum use, as the public interest warrants, applies equally to all licenses, whether acquired through the competitive bidding process or otherwise. The Bureau strongly encourages each participant in Auction 1002 to continue such research throughout the auction. Pending and future Commission and judicial proceedings—including applications, applications for modification, rulemaking proceedings, requests for special temporary authority, waiver requests, petitions to deny, petitions for reconsideration, informal objections, and applications for review—may relate to particular applicants or the licenses available in Auction 1002 (or the terms and conditions thereof, including all applicable Commission rules and regulations), and each prospective applicant is responsible for assessing the likelihood of the various possible outcomes and for considering the potential impact on licenses available in this auction.

v. Use of Auction System

83. Bidders will be able to participate in Auction 1002 over the Internet using the Commission's bidding system (Auction System). The Commission makes no warranty whatsoever with respect to the Auction System. In no event shall the Commission, or any of its officers, employees, or agents, be liable for any damages whatsoever (including, but not limited to, loss of business profits, business interruption, loss of business information, or any other loss) arising out of or relating to the existence, furnishing, functioning, or use of the Auction System that is accessible to qualified bidders in connection with this auction. Moreover, no obligation or liability will arise out of the Commission's technical, programming, or other advice or service provided in connection with the Auction System.

vi. Environmental Review Requirements

84. Licensees must comply with the Commission's rules regarding implementation of the National Environmental Policy Act and other federal environmental statutes. The construction of a wireless antenna facility is a federal action, and the licensee must comply with the Commission's environmental rules for each such facility. These environmental rules require, among other things, that the licensee consult with expert agencies having environmental responsibilities, including the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the U.S. Army Corps of Engineers, and the Federal Emergency Management Agency (through the local authority with jurisdiction over floodplains). In assessing the effect of facility construction on historic properties, the licensee must follow the provisions of the Commission's Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process. The licensee must prepare an environmental assessment for any facility that may have a significant impact in or on wilderness areas, wildlife preserves, threatened or endangered species, designated critical habitats, historical or archaeological sites, Native American religious sites, floodplains, surface features, or migratory birds. In addition, the licensee must prepare an environmental assessment for any facility that includes high intensity white lights in residential neighborhoods or excessive radio frequency emission.

B. Auction Specifics

i. Auction Title and Start Date

85. The forward portion of the Incentive Auction will be referred to as “Auction 1002 – Broadcast Television Spectrum Incentive Forward Auction.” The clock phase of the initial stage of Auction 1002 will begin on the second business day after the close of bidding in the reverse auction (Auction 1001), but no sooner than 15 business days after the release of a public notice announcing all qualified bidders for the forward auction. Unless otherwise announced, bidding on all generic spectrum blocks in all PEAs will be conducted on each business day until bidding has stopped on all spectrum blocks in all PEAs. Following the conclusion of the clock phase in the final stage, the Auction System will make available more detailed information about the assignment phase (including scheduling information and bidding options) to the winning clock phase bidders five business days before starting the assignment phase.

ii. Auction 1002 Dates and Deadlines

86. The following dates and deadlines apply: (1) the pre-auction process tutorial will be available (via Internet) on January 7, 2016; (2) the forward auction application (FCC Form 175) filing window opens on January 14, 2016 (12:00 noon ET); (3) the forward auction application (FCC Form 175) filing window deadline is on January 28, 2016 (6:00 p.m. ET); (4) the bidding and post-auction process tutorial will be available (via Internet) on February 29, 2016; (6) the practice auction will occur in the spring of 2016; (7) the initial commitment deadline is on March 29, 2016 (6:00 p.m. ET); (8) the initial clearing target and band plan will be announced three to four weeks after the initial commitment deadline; (9) upfront payments (via wire transfer) will be due by the deadline announced in the Upfront Payments PN (6:00 p.m. ET); (10) the clock and assignment phase mock auction will be announced in the Auction 1002 Qualified Bidders PN; and (11) the clock-phase auction will begin on the date announced in the Auction 1002 Qualified Bidders PN.

iii. Requirements for Participation

87. Those wishing to participate in Auction 1002 must: (1) submit a forward auction application (FCC Form 175) electronically prior to 6:00 p.m. ET, on January 28, 2016 following the electronic filing instructions that will be provided in a separate public notice to be released in the near future (FCC Form 175 Instructions); (2) submit a sufficient upfront payment by 6:00 p.m. ET, on the deadline to be announced in a separate public notice to be released after the initial clearing target and associated band plan scenario has been determined (Upfront Payment PN); and (3) comply with all provisions outlined in the Auction 1000 Bidding Procedures PN and the Auction 1000 Application Procedures PN as well as applicable Commission rules and policies.

iv. Auction Delay, Suspension, or Cancellation

88. By public notice or by announcement during the forward auction, the auction may be delayed, suspended, or cancelled in the event of natural disaster, technical obstacle, network disruption, evidence of an auction security breach or unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and efficient conduct of the competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to resume the competitive bidding starting from the beginning of the current round or from some previous round or cancel the auction in its entirety. The Bureau emphasizes that it will exercise this authority solely at its discretion.

C. Forward Auction Application (FCC Form 175)

89. An application to participate in the forward auction (FCC Form 175) is the first part of the Commission's two-part auction application process for Auction 1002. The FCC Form 175 is a streamlined application filed by parties seeking to participate in an auction that provides information used by Commission staff to determine whether the applicant is legally, technically, and financially qualified to participate in Commission auctions for licenses or permits. An applicant's eligibility to bid in Auction 1002 is based on the information provided in its FCC Form 175 and required certifications as to the

applicant's qualifications, and on the applicant's submission of a sufficient upfront payment. In the second part of the application process for Auction 1002, each winning bidder must file a more comprehensive post-auction application (FCC Form 601) and must have a complete and accurate ownership disclosure information report (FCC Form 602) on file with the Commission.

90. Every entity and individual seeking to bid on a license available in Auction 1002 must file an FCC Form 175 electronically via the Auction System prior to 6:00 p.m. ET on January 28, 2016, following the procedures prescribed in the FCC Form 175 Instructions. If an applicant claims eligibility for a bidding credit, the information provided in its FCC Form 175 will be used to determine whether the applicant may request the claimed bidding credit. As more fully explained in the Prohibited Communications PN, an applicant that files an FCC Form 175 to participate in Auction 1002 will be subject to the Commission's prohibited communications rules beginning effective as of the application filing deadline.

91. Applicants bear full responsibility for submitting accurate, complete, and timely auction applications. Each applicant must make a series of certifications under penalty of perjury on its FCC Form 175 related to the information provided in its application and its participation in the auction, and must confirm that it is legally, technically, financially, and otherwise qualified to hold a license. If an Auction 1002 applicant fails to make the required certifications in its FCC Form 175 by the application filing deadline, its application will be unacceptable for filing and cannot be corrected subsequent to the filing deadline.

92. The submission of an FCC Form 175 (and any amendments thereto) constitutes a representation by the person certifying the application that he or she is an authorized representative of the applicant with authority to bind the applicant, that he or she has read the form's instructions and certifications, and that the contents of the application, its certifications, and any attachments are true and correct. Submission of any false certification(s) to the Commission may result in penalties, including

monetary forfeitures, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution.

93. The Commission's rules prohibit the filing of more than one auction application by the same individual or entity. An individual or entity may therefore not submit more than one application for a single auction. If a party submits multiple applications for any license(s) in a particular auction, only one of its applications can be found to be complete when reviewed for completeness and compliance with the Commission's rules. Similarly, and consistent with the Commission's general prohibition on joint bidding agreements, an entity is generally permitted to participate in a Commission auction only through a single bidding entity. Accordingly, the filing of applications by entities controlled by the same individual or set of individuals will generally not be permitted. This restriction applies across all applications in a particular auction, without regard to the licenses or geographic areas selected. Section 1.2105(a)(3) provides a limited exception to the general prohibition on the filing of multiple applications by commonly-controlled entities for qualified rural wireless partnerships and individual members of such partnerships pursuant to which each qualifying rural wireless partnership and its individual members will be permitted to participate separately in an auction. 47 CFR 1.2105(a)(3).

94. The Bureau discusses additional details regarding certain information required to be submitted in the FCC Form 175. However, each applicant should read carefully the Auction 1002 application instructions and consult the Commission's rules to ensure that all of the information required to be submitted in an auction application is included within its application.

i. Authorized Bidders

95. An applicant must designate at least one authorized bidder, and no more than three, in its FCC Form 175. The Commission's rules prohibit an individual from serving as an authorized bidder for more than one auction applicant. Accordingly, the same individual may not be listed as an authorized bidder in more than one FCC Form 175.

ii. License Area Selection

96. An applicant must select all of the PEA(s) on which it may want to bid from the list of available PEAs on its FCC Form 175. The application will not ask an applicant to select a number of generic blocks on which it may wish to bid since the number of blocks available in each PEA will not be known at the time applications are due. The applicant must carefully review and verify its PEA selections before the FCC Form 175 filing deadline because PEA selections cannot be changed after the auction application filing deadline. The Auction System will not accept bids on PEA(s) that were not selected on the applicant's FCC Form 175.

iii. Qualification to Bid on Market-Based Spectrum Reserve

97. An entity can qualify to bid on reserved spectrum by either (1) holding an attributable interest in less than 45 megahertz of below-1-GHz spectrum in a given PEA; or (2) being a non-nationwide provider. The attribution criteria set forth in 47 CFR 20.22 govern qualification to bid on the spectrum reserve under either of the two prongs. To qualify to bid on reserved licenses in a PEA under the first prong, an entity must not have an attributable interest on a population-weighted basis of 45 megahertz or more of below-1-GHz spectrum that is suitable and available for the provision of mobile telephony/mobile broadband services in that PEA, at the deadline for filing an FCC Form 175 to participate in Auction 1002. A total of 134 megahertz of below-1-GHz spectrum is currently considered to be "suitable" and "available," as follows: 50 megahertz of 800 MHz cellular spectrum, 70 megahertz of 700 MHz spectrum, and 14 megahertz of SMR spectrum.

98. Here, the Bureau addresses additional implementation issues related to qualification to bid on the spectrum reserve: (1) an element of the methodology for calculating below-1-GHz spectrum holdings in a PEA, related to cellular license areas; (2) guidance regarding how certain types of rural partnerships, or members thereof, can request status as non-nationwide providers; and (3) logistical details regarding the required certification by applicants of their reserve-eligible qualification in particular PEAs. In addition, Attachment 3 to the Auction 1000 Application Procedures PN contains a list, for each

PEA, of the nationwide providers that are reserve-eligible in that PEA based on application of the Bureau's current records of the methodology for calculating below-1-GHz spectrum holdings.

a. Accounting for Cellular License Areas in Calculating Below-1-GHz Spectrum Holdings in a PEA

99. As set forth in the Mobile Spectrum Holdings R&O, for purposes of determining reserve-eligibility, the Bureau will calculate an entity's below-1-GHz spectrum holdings in a PEA by summing the product of county spectrum holdings and county population within the PEA (using U.S. Census 2010 population data), and then dividing that sum by the total population of the PEA. In those PEAs where there are existing long-term commercial leases, as the Bureau attributes the leased spectrum to both the lessee and lessor, it increases the total below-1-GHz spectrum amount included by the population-weighted amount of the lease – and accordingly increase the threshold for reserve-eligibility in those markets to approximately one-third of the total – so that service providers' holdings are not overstated in those markets. The Bureau notes that 800 MHz cellular service license areas (Cellular Geographic Service Areas or CGSAs), which are relevant to determining an entity's below-1-GHz holdings, do not generally follow county lines. As a result, the Bureau will take additional steps to calculate an entity's cellular holdings at the PEA level. Specifically, it will first overlay map files of each service provider's CGSAs as of May 2015 onto map files of census blocks. The CGSA map files are available at: <https://www.fcc.gov/encyclopedia/cgsa>. Census block map files are available at: <https://www.census.gov/cgi-bin/geo/shapefiles2010/main>. Next, it will attribute cellular spectrum in each census block to each entity whose CGSA boundary overlaps the geometric center of the block, referred to as the centroid. The "centroid" refers to the internal point latitude/longitude of a census block polygon. The Commission has used this methodology, which relies on publicly available information and is an administratively simple and efficient approach to apply, for determining in other contexts how to categorize individual census blocks. Once the Bureau calculates an entity's holdings in each census block within the PEA, the standard population-weighted methodology is used to aggregate spectrum holdings to

the PEA level. Census block cellular spectrum holdings are multiplied by the population of the census block for all census blocks in the PEA. The sum is then divided by the population of the PEA to yield the population-weighted megahertz cellular spectrum holdings at the PEA level. The Bureau notes that this methodology produces the same results, and is administratively easier, than a methodology that first aggregates census blocks up to the county level and then aggregates counties up to the PEA level.

100. In order to provide an opportunity for potential applicants in Auction 1002 to review the Bureau's current assessment of which of the nationwide providers would qualify to bid on reserve spectrum in each PEA, and to inform applicants of how to determine where they may certify eligibility for bidding on such spectrum, Attachment 3 to the Auction 1000 Application Procedures PN includes a list of qualified nationwide providers for each PEA, based on the methodology and in the Mobile Spectrum Holdings R&O. The Bureau notes that non-nationwide providers can qualify to bid on reserve spectrum irrespective of their below-1-GHz spectrum holdings for the reasons set out in the Mobile Spectrum Holdings R&O, and the Auction 1000 Bidding Procedures PN. If an interested party would like to raise potential corrections to this list, it may do so by making a filing in AU Docket No. 14-252, GN Docket No. 12-268, and WT Docket No. 12-269, and sending the filing by electronic mail to catherine.matraves@fcc.gov and karen.sprung@fcc.gov by November 16, 2015. An updated list of all nationwide applicants qualified to bid on reserved spectrum in each PEA will be issued prior to the FCC Form 175 filing deadline. The Bureau notes that spectrum holdings that are the subject of an application for assignment or transfer of control that has been approved as of the date of the Auction 1000 Application Procedures PN will be attributed to the assignee or transferee for purposes of the determinations in Attachment 3 to the Public Notice. The updated list that will be released prior to the FCC Form 175 filing deadline similarly will reflect such attributions as of the date of that updated list.

b. Required Certification of Eligibility for Reserved Spectrum

101. In the Auction 1000 Comment PN, the Commission proposed to require an applicant seeking to participate in the forward auction as a reserve-eligible entity to certify in its application that it

is a reserve-eligible entity with respect to each PEA in which it wishes to be able to bid for reserved blocks. The Commission further proposed that an applicant must make this certification in its application and that it shall not be able to revise its certification thereafter. The Commission stated that this approach will enable potentially reserve-eligible applicants to forego reserve-eligible status on a PEA-by-PEA basis, and that requiring applicants intending to bid for reserved spectrum blocks to affirmatively declare their eligibility to do so will avoid any subsequent ambiguity or uncertainty by each applicant regarding its reserve-eligible status. The Commission received no comment on these proposals, and the Bureau therefore adopts a spectrum reserve eligibility certification for Auction 1002.

102. Under this certification requirement, an applicant that is eligible to bid on reserved spectrum blocks in a given PEA, and that included the PEA in its license area selection(s), must certify its eligibility to bid for reserved blocks in the PEA. An applicant is not required to bid on, or certify its eligibility for, reserved spectrum blocks in any or all areas in which it is eligible. However, an applicant that does not certify its eligibility with respect to a particular license area because it is not eligible or it declines to do so will not be able to bid for reserved spectrum blocks in that PEA during the auction. Accordingly, any demand by that applicant in that license area will not be counted as demand for reserved spectrum blocks when determining the actual number of blocks that will be reserved in a PEA.

c. Effect of Relationships between a Non-Nationwide Provider and a Nationwide Provider

103. In the Auction 1000 Bidding Procedures PN, the Commission recognized a concern that it would be inconsistent with the intent of the reserve, in certain unique circumstances involving limited equity interests by nationwide providers in long-standing rural partnerships, to apply the attribution rule in 47 CFR 20.22 so as to prevent non-nationwide providers from bidding for reserved spectrum. In particular, the Commission identified specific circumstances in which certain rural partnerships can secure status as non-nationwide providers for purposes of qualifying to bid on the spectrum reserve. These circumstances are where the nationwide provider is not the managing partner of the rural

partnership, has not and will not provide funding for the purchase of the licenses in spectrum auctions by the rural partnership, including the incentive auction, the rural partnership is of long standing, the nationwide provider's interest in the rural partnership is non-controlling and is less than 33 percent, and the partnership's retail service is not branded under the name of the nationwide provider.

104. If a member of a long-standing rural partnership applying to participate in Auction 1002 wishes to assert qualification to bid on reserved spectrum in a PEA on the basis of status as a non-nationwide provider, notwithstanding attributable relationships with AT&T, Verizon, Sprint, or T-Mobile, it should submit an attachment to its FCC Form 175 certifying and detailing how it meets the circumstances specified by the Commission to secure status as a non-nationwide provider for purposes of qualifying to bid on the spectrum reserve.

iv. Disclosure of Agreements Related to Licenses Being Auctioned

105. An applicant must provide in its FCC Form 175 a brief description of, and identify each party to, any partnerships, joint ventures, consortia, or agreements, arrangements, or understandings of any kind relating to the licenses being auctioned, including any agreements that address or communicate directly or indirectly bids (including specific prices), bidding strategies (including the specific licenses on which to bid or not to bid), or the post-auction market structure, to which the applicant, or any party that controls or is controlled by the applicant, is a party. For purposes of this rule, a controlling interest includes all individuals or entities with positive or negative de jure or de facto control of the licensee. In connection with the agreement disclosure requirement, the applicant must certify under penalty of perjury in its FCC Form 175 that it has described, and identified each party to, any such agreements, arrangements, or understanding into which it has entered. An applicant may continue negotiating, discussing, or communicating with respect to a new agreement after the FCC Form 175 filing deadline, provided that the communications involved do not relate both to the licenses being auctioned and to bids or bidding strategies or post-auction market structure. An Auction 1002 applicant that enters into any agreement relating to the licenses being auctioned during the auction is subject to the same disclosure

obligations as it would be for agreements existing at the FCC Form 175 filing deadline and must maintain the accuracy and completeness of the information in its pending auction application.

106. For purposes of making the required agreement disclosures on the FCC Form 175, if parties agree in principle on all material terms prior to the application filing deadline, each party to the agreement that is submitting an auction application must provide a brief description of, and identify the other party or parties to, the agreement on its respective FCC Form 175 pursuant to 47 CFR 1.2105(a)(2)(viii) and (c)(1), even if the agreement has not been reduced to writing. However, if the parties have not agreed in principle by the FCC Form 175 filing deadline, they should not describe, or include the names of parties to, the discussions on their applications.

107. As recently amended, the Commission's rules now generally prohibit joint bidding and other arrangements involving auction applicants (including any party that controls or is controlled by, such applicants). This prohibition applies to joint bidding arrangements involving two or more nationwide providers, as well as joint bidding arrangements involving a nationwide and one or more non-nationwide providers, where any party to the arrangement is an applicant for the auction. Non-nationwide providers may enter into agreements to form a consortium or a joint venture (as applicable) that result in a single party applying to participate in an auction. Specifically, a designated entity can participate in only one consortium in an auction, which shall be the exclusive bidding vehicle for its members in that auction, and non-nationwide providers may participate in an auction through only one joint venture, which also shall be the exclusive bidding vehicle for its members in that auction. While two or more non-nationwide providers may participate in an auction through a joint venture, a nationwide and a non-nationwide provider may not do so. The general prohibition on joint bidding arrangements excludes certain agreements, including those that are solely operational in nature, as defined in 47 CFR 1.2105(a)(2)(ix)(A)-(C).

108. For purposes of the prohibition on joint bidding arrangements, "joint bidding arrangements" include arrangements relating to the licenses being auctioned that address or communicate,

directly or indirectly, bidding at the auction, bidding strategies, including arrangements regarding price or the specific licenses on which to bid, and any such arrangements relating to the post-auction market structure. A “non-nationwide provider” refers to any provider of communications services that is not a “nationwide provider.” For Auction 1002, AT&T, Verizon, Sprint, and T-Mobile are considered to be “nationwide providers.”

109. In connection with disclosing any agreements related to the licenses being auctioned in Auction 1002, an applicant must certify that neither the applicant, nor any party that controls or is controlled by the applicant, has entered or will enter into any agreements relating to the licenses being auctioned other than those fall within the limited exceptions in 47 CFR 1.2105(a). In addition, an applicant must certify that it is not, and will not be, privy to, or involved in, in any way the bids or bidding strategy of more than one auction applicant and that, if applicable, it has established procedures to preclude its agents, employees, or related parties, from possessing information about the bids or bidding strategies of more than one applicant or communicating such information regarding another applicant. Although 47 CFR 1.2105(c)(1) does not prohibit auction applicants from communicating about matters that are within the scope of an agreement described in 47 CFR 1.2105(a)(2)(ix)(A)-(C) that has been disclosed in an FCC Form 175 pursuant to 47 CFR 1.2105(a)(2)(viii), the Bureau reminds applicants that certain discussions or exchanges could nonetheless touch upon impermissible subject matters, and that compliance with the Commission’s rules will not insulate a party from enforcement of the antitrust laws.

110. Applicants should bear in mind that a winning bidder will be required to disclose in its FCC Form 601 post-auction application the specific terms, conditions, and parties involved in any agreement relating to the licenses being auctioned into which it had entered prior to the filing of its FCC Form 175 application. This applies to any bidding consortium, joint venture, partnership, or other agreement, arrangement, or understanding of any kind entered into relating to the competitive bidding process, including any agreements relating to the licenses being auctioned that address or communicate directly or indirectly bids (including specific prices), bidding strategies (including the specific licenses on

which to bid or not to bid), or the post-auction market structure, to which the applicant, or any party that controls or is controlled by the applicant, is a party.

v. Ownership Disclosure Requirements

111. Each applicant must comply with the uniform Part 1 ownership disclosure requirements and provide information required by 47 CFR 1.2105 and 1.2112, and, where applicable 1.2110.

Specifically, in completing the FCC Form 175, an applicant will be required to fully disclose information on the real party- or parties-in-interest and the ownership structure of the applicant, including both direct and indirect ownership interests of 10 percent or more, as prescribed in 47 CFR 1.2105 and 1.2112, and, where applicable, 1.2110.

112. In certain circumstances, an applicant's most current ownership information on file with the Commission, if in an electronic format compatible with the FCC Form 175 (such as information submitted in an FCC Form 602 or in an FCC Form 175 filed for a previous auction) will automatically be entered into the applicant's auction application. Each applicant must carefully review any information that has been automatically entered in its FCC Form 175 to confirm that all information supplied on the application is complete and accurate as of the application filing deadline.

vi. Foreign Ownership Disclosure Requirements

113. Section 310 of the Communications Act requires the Commission to review foreign investment in radio station licenses and imposes specific restrictions on who may hold certain types of radio licenses. The provisions of section 310 apply to applications for initial radio licenses, applications for assignments and transfers of control of radio licenses, and spectrum leasing arrangements under the Commission's secondary market rules. In completing the FCC Form 175, an applicant will be required to disclose information concerning any foreign ownership of the applicant. If an applicant has a foreign owner(s) with ownership interests in excess of the applicable limit or benchmark set for in section 310, it may seek to participate in Auction 1002 as long as it has filed a petition for declaratory ruling with the

Commission prior to the FCC Form 175 filing deadline. An applicant must certify in its FCC Form 175 that, as of the deadline for filing its application to participate in Auction 1002, the applicant either is in compliance with the foreign ownership provisions of section 310 or has filed a petition for declaratory ruling requesting Commission approval to exceed the applicable foreign ownership limit or benchmark in section 310(b) that is pending before, or has been granted by, the Commission.

vii. National Security Certification

114. The Commission’s rules require that any applicant seeking to participate in an auction that is required or authorized to be conducted pursuant to the Spectrum Act must certify in its FCC Form 175, under penalty of perjury, that the applicant and all of the related individuals and entities required to be disclosed on its application are not person(s) who have been, for reasons of national security, barred by any agency of the Federal Government from bidding on a contract, participating in an auction, or receiving a grant, and who are thus statutorily prohibited from participating in such a Commission auction. Because the Commission will conduct Auction 1002 under its general competitive bidding rules and Auction 1002 is subject to the national security restriction in section 6004 of the Spectrum Act, Auction 1002 applicants must certify as to their compliance with the national security restriction in 47 CFR 1.2105(a)(2)(xiii).

viii. Provisions for Small Businesses and Rural Service Providers

115. The Commission recently revised the designated entity rules that apply to all licenses acquired with bidding credits, including those won in Auction 1002. A bidding credit represents an amount by which a bidder’s winning bid will be discounted, subject to the caps discussed in the “Caps on Bidding Credits” section. Applicants should note that all references to a “winning bid” discussed in the context of designated entity bidding credits in the Auction 1000 Application Procedures PN (e.g., the application of a small business discount to an applicant’s winning bid) refer to the calculated license price discussed in the “Calculating Individual License Prices” section and set forth in section 9 of Appendix H in Attachment 1 to the Auction 1000 Application Procedures PN.

116. As set forth in 47 CFR 1.2110, these rule revisions include, but are not limited to: (1) adopting a two-pronged standard for evaluating eligibility for small business benefits and eliminating the attributable material relationship (AMR) rule; (2) establishing a new attribution rule for certain disclosable interest holders of applicants claiming designated entity benefits; (3) updating the gross revenue amounts defining eligibility for small business benefits; (4) creating a separate bidding credit for eligible rural service providers; and (5) establishing caps on the total amount of designated entity benefits any eligible winning bidder may receive.

117. In Auction 1002, bidding credits will be available to applicants demonstrating eligibility for a small business or a rural service provider bidding credit and subsequently winning license(s). Bidding credits will not be cumulative—an applicant is permitted to claim either a small business bidding credit or a rural service provider bidding credit, but not both. Each applicant must also certify that it is eligible for the claimed bidding credit in its FCC Form 175. Each applicant should review carefully the Commission’s decisions regarding the designated entity provisions as well as the newly-adopted Part 1 rule changes.

a. Small Business Bidding Credit

118. For Auction 1002, bidding credits will be available to eligible small businesses and consortia thereof, subject to the caps. Under the service rules applicable to the 600 MHz Band licenses to be offered in Auction 1002, the level of bidding credit available is determined as follows: (1) a bidder with attributed average annual gross revenues that do not exceed \$55 million for the preceding three years is eligible to receive a 15 percent discount on its winning bid; and (2) a bidder with attributed average annual gross revenues that do not exceed \$20 million for the preceding three years is eligible to receive a 25 percent discount on its winning bid.

119. Small business bidding credits are not cumulative; an eligible applicant may receive either the 15 percent or the 25 percent bidding credit on its winning bid, but not both. The Commission’s unjust enrichment provisions also apply to a winning bidder that utilizes a bidding credit and

subsequently seeks to assign or transfer control of its license within a certain period to an entity not qualifying for the same level of bidding credit.

120. Each applicant claiming a small business bidding credit must disclose the gross revenues for the preceding three years for each of the following: (1) the applicant, (2) its affiliates, (3) its controlling interests, and (4) the affiliates of its controlling interests. The applicant must also submit an attachment that lists all parties with which the applicant has entered into any spectrum use agreements or arrangements for any licenses that be may won by the applicant in Auction 1002. In addition, to the extent that an applicant has an agreement with any disclosable interest holder for the use of more than 25 percent of the spectrum capacity of any license that may be won in Auction 1002, the identity and the attributable gross revenues of any such disclosable interest holder must be disclosed. If an applicant is applying as a consortium of small businesses, the disclosures described in this paragraph must be provided for each consortium member.

b. Rural Service Provider Bidding Credit

121. An eligible applicant may request a 15 percent discount on its winning bid using a rural service provider bidding credit, subject to the \$10 million cap. To be eligible for a rural service provider bidding credit, an applicant must be: (1) a service provider that is in the business of providing commercial communications services and, together with its controlling interests, affiliates, and the affiliates of its controlling interests, has fewer than 250,000 combined wireless, wireline, broadband, and cable subscribers; and (2) serves predominantly rural areas, defined as counties with a population density of 100 or fewer persons per square mile. These eligibility requirements must be satisfied by the FCC Form 175 filing deadline for Auction 1002, i.e., January 28, 2016. Additionally, an applicant may count any subscriber as a single subscriber even if that subscriber receives more than one service.

122. Each applicant seeking a rural service provider bidding credit must disclose the number of subscribers it has, along with the number of subscribers of its affiliates, controlling interests, and the affiliates of its controlling interests. The applicant must also submit an attachment that lists all parties

with which the applicant has entered into any spectrum use agreements or arrangements for any licenses that be may won by the applicant in Auction 1002. In addition, to the extent that an applicant has an agreement with any disclosable interest holder for the use of more than 25 percent of the spectrum capacity of any license that may be won in Auction 1002, the identity and the attributable subscribers of any such disclosable interest holder must be disclosed. Like applicants seeking eligibility for small business bidding credits, eligible rural service providers may also form a consortium. If an applicant is applying as a consortium of rural service providers, the disclosures described in this paragraph, including the certification, must be provided for each consortium member.

c. Caps on Bidding Credits

123. Eligible applicants claiming either a small business or rural service provider bidding credit will be subject to certain caps on the total amount of bidding credits that any eligible applicant may receive. Specifically, an applicant claiming a small business bidding credit is subject to a \$150 million aggregate cap, of which at most \$10 million may apply to licenses won in PEAs with a population of 500,000 or less. Additionally, an applicant claiming a rural service provider bidding credit is subject to a \$10 million aggregate cap. No winning designated entity bidder will be able to obtain more than \$10 million in bidding credits in total for licenses won in PEAs 118-416, with the exception of PEA 412 (Puerto Rico), which exceeds the 500,000 population threshold.

d. Attributable Interests

(i) Controlling Interests and Affiliates

124. Pursuant to 47 CFR 1.2110 an applicant's eligibility for designated entity benefits is determined by attributing the gross revenues (for those seeking small business benefits) or subscribers (for those seeking rural service provider benefits) of the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests. Controlling interests of an applicant include individuals and entities with either de facto or de jure control of the applicant. Typically, ownership of greater than 50

percent of an entity's voting stock evidences de jure control. De facto control is determined on a case-by-case basis based on the totality of the circumstances. The following are some common indicia of de facto control: (1) the entity constitutes or appoints more than 50 percent of the board of directors or management committee; (2) the entity has authority to appoint, promote, demote, and fire senior executives that control the day-to-day activities of the licensee; and (3) the entity plays an integral role in management decisions.

125. Applicants should refer to 47 CFR 1.2110(c)(2) and FCC Form 175 Instructions to understand how certain interests are calculated in determining control for purposes of attributing gross revenues. For example, officers and directors of an applicant are considered to have a controlling interest in the applicant.

126. Affiliates of an applicant or controlling interest include an individual or entity that (1) directly or indirectly controls or has the power to control the applicant, (2) is directly or indirectly controlled by the applicant, (3) is directly or indirectly controlled by a third party that also controls or has the power to control the applicant, or (4) has an "identity of interest" with the applicant. The Commission's definition of an affiliate of the applicant encompasses both controlling interests of the applicant and affiliates of controlling interests of the applicant. For more information on the application requirements regarding controlling interests and affiliates, applicants should refer to 47 CFR 1.2110(c)(2) and (c)(5) respectively, as well as the FCC Form 175 Instructions.

127. An applicant seeking a small business bidding credit must demonstrate its eligibility for the bidding credit by: (1) meeting the applicable small business size standard, based on the controlling interest and affiliation rules, and (2) retaining control, on a license-by-license basis, over the spectrum associated with the licenses for which it seeks small business benefits. For purposes of the first prong of the standard, applicants should note that control and affiliation may arise through, among other things, ownership interests, voting interests, management and other operating agreements, or the terms of any other types of agreements—including spectrum lease agreements—that independently or together create a

controlling, or potentially controlling, interest in the applicant's or licensee's business as a whole. In addition, once an applicant demonstrates eligibility as a small business under the first prong, it must also be eligible for benefits on a license-by-license basis under the second prong. As part of making the FCC Form 175 certification that it is qualified as a designated entity under 47 CFR 1.2110, an applicant is certifying that it does not have any spectrum use or other agreements that would confer de jure and de facto control of any license it seeks to acquire with bidding credits.

128. Under this new standard for evaluating eligibility for small business bidding credits, if an applicant executes a spectrum use agreement that does not comply with the Commission's relevant standard of de facto control, it will be subject to unjust enrichment obligations for the benefits associated with that particular license, as well as the penalties associated with any violation of section 310(d) of the Communications Act and related regulations. If that spectrum use agreement (either alone or in combination with the designated entity controlling interest and attribution rules), goes so far as to confer control of the applicant's overall business, the gross revenues of the additional interest holders will be attributed to the applicant, which could render the applicant ineligible for all current and future small business benefits on all licenses.

(ii) Limitation on Spectrum Use

129. The Commission determined that a new attribution rule will apply going forward under which the gross revenues (or the subscribers, in the case of a rural service provider) of an applicant's disclosable interest holder are attributable to the applicant, on a license-by-license basis, if the disclosable interest holder has an agreement with the applicant to use, in any manner, more than 25 percent of the spectrum capacity of any license won by the applicant and acquired with a bidding credit during the five-year unjust enrichment period for the applicable license. For purposes of this rule, a disclosable interest holder of an applicant seeking designated entity benefits is defined as any individual or entity holding a ten percent or greater interest of any kind in the applicant, including but not limited to, a ten percent or greater interest in any class of stock, warrants, options or debt securities in the applicant or licensee. Any

applicant seeking a bidding credit for licenses won in Auction 1002 will be subject to this attribution rule and must make the requisite disclosures.

130. The Commission also determined that certain disclosable interest holders may be excluded from this attribution rule. Specifically, an applicant claiming the rural service provider bidding credit may have spectrum license use agreements with a disclosable interest holder, without having to attribute the disclosable interest holder's subscribers, so long as the disclosable interest holder is independently eligible for a rural service provider credit and the use agreement is otherwise permissible under the Commission's existing rules. If applicable, the applicant must attach to its FCC Form 175 any additional information as may be required to indicate any license (or license area) that may be subject to this attribution rule or to demonstrate its eligibility for the exception from this attribution rule. To the extent an Auction 1002 applicant is required to submit any such additional information, the applicant must not disclose details of its submission to others as it would reveal information regarding its license area selection(s). Consistent with the Commission's limited information procedures, the Bureau intends to withhold from public disclosure all information contained in any such attachments until after the close of the auction.

(iii) Exceptions from Attribution Rules for Small Businesses and Rural Service Providers

131. Applicants claiming designated entity benefits may be eligible for certain exceptions from the Commission's attribution rules. For example, the Commission has clarified that, in calculating an applicant's gross revenues under the controlling interest standard, it will not attribute to the applicant the personal net worth, including personal income, of its officers and directors. The Commission has also exempted from attribution to the applicant the gross revenues of the affiliates of a rural telephone cooperative's officers and directors, if certain conditions specified in 47 CFR 1.2110(b)(4)(iii) are met. An applicant claiming this exemption must provide, in an attachment, an affirmative statement that the applicant, affiliate and/or controlling interest is an eligible rural telephone cooperative within the meaning

of 47 CFR 1.2110(b)(4)(iii), and the applicant must supply any additional information as may be required to demonstrate eligibility for the exemption from the attribution rule.

132. An applicant claiming a rural service provider bidding credit may be eligible for an exception from the Commission's attribution rules as an existing rural partnership. To qualify for this exception, an applicant must be a rural partnership providing service as of July 16, 2015, and each member of the rural partnership must individually have fewer than 250,000 combined wireless, wireline, broadband, and cable subscribers. Because each member of the rural partnership must individually qualify for the bidding credit, by definition, a partnership that includes a nationwide provider as a member will not be eligible for the benefit.

133. Finally, a consortium of small businesses or rural service providers may seek an exception from the Commission's attribution rules. Under the Commission's rules, a consortium of small businesses or rural service providers is a conglomerate organization composed of two or more entities, each of which individually satisfies the definition of small business or rural service provider. A consortium must provide additional information for each member demonstrating each member's eligibility for the claimed bidding credit in order to show that the applicant satisfies the eligibility criteria for the bidding credit. The gross revenue or subscriber information of each consortium member will not be aggregated for purposes of determining the consortium's eligibility for the claimed bidding credit. However, this information must be provided to ensure that each consortium member qualifies for the bidding credit sought by the consortium.

ix. Tribal Lands Bidding Credit

134. To encourage the growth of wireless services in federally recognized tribal lands, the Commission has implemented a tribal lands bidding credit. Applicants do not provide information regarding tribal lands bidding credits on their FCC Form 175. Instead, winning bidders may apply for the tribal lands bidding credit after the auction when they file their more detailed, FCC Form 601 applications.

x. Provisions Regarding Current and Former Defaulters

135. Pursuant to the rules governing competitive bidding, each applicant must make certifications regarding whether it is a current or former defaulter or delinquent. A current defaulter or delinquent is not eligible to participate in Auction 1002, but a former defaulter or delinquent may participate so long as it is otherwise qualified and makes an upfront payment that is fifty percent more than would otherwise be necessary.

136. For purposes of evaluating the certifications under 47 CFR 1.2105(a)(2)(xi) and (xii), the Bureau clarifies that “non-tax debt owed to any Federal agency” includes, within the meaning of the rule, all amounts owed under Federal programs, including contributions to the Universal Service Fund, Telecommunications Relay Services Fund, and the North American Numbering Plan Administration, notwithstanding that the administrator of any such fund may not be considered a Federal “agency” under the Debt Collection Improvement Act of 1996. See 31 U.S.C. 3716 and 3717; see also 47 CFR 1.1911, 1.1912, 1.1940. For example, an applicant with a past due USF contribution as of the auction application filing deadline would be disqualified from participating in Auction 1002 under the Commission’s rules. If, however, the applicant cures the overdue debt prior to the auction application filing deadline (and such debt does not fall within one of the exclusions described in the “Provisions Regarding Current and Former Defaulters” section), it may be eligible to participate in Auction 1002 as a former defaulter under the Commission’s rules.

137. Accordingly, each applicant must certify under penalty of perjury on its FCC Form 175 that it, its affiliates, its controlling interests, and the affiliates of its controlling interests, are not in default on any payment for a Commission construction permit or license (including down payments) and that it is not delinquent on any non-tax debt owed to any Federal agency. Additionally, an applicant must certify under penalty of perjury whether it (along with its controlling interests) has ever been in default on any payment for a Commission construction permit or license (including down payments) or has ever been

delinquent on any non-tax debt owed to any Federal agency, subject to the exclusions. For purposes of making these certifications, the term “controlling interest” is defined in 47 CFR 1.2105(a)(4)(i).

138. Under the Commission’s revised rule regarding applications by former defaulters, an applicant is considered a “former defaulter” or a “former delinquent” when, as of the FCC Form 175 deadline, it or any of its controlling interests has defaulted on any Commission construction permit or license or has been delinquent on any non-tax debt owed to any Federal agency, but has since remedied all such defaults and cured all of the outstanding non-tax delinquencies. For purposes of the certification under 47 CFR 1.2105(a)(2)(xii), the applicant may exclude from consideration any cured default on a Commission license or delinquency on a non-tax debt owed to a Federal agency for which any of the following criteria are met: (1) the notice of the final payment deadline or delinquency was received more than seven years before the FCC Form 175 filing deadline; (2) the default or delinquency amounted to less than \$100,000; (3) the default or delinquency was paid within two quarters (i.e., six months) after receiving the notice of the final payment deadline or delinquency; or (4) the default or delinquency was the subject of a legal or arbitration proceeding and was cured upon resolution of the proceeding. With respect to the first exclusion, notice to a debtor may include notice of a final payment deadline or notice of delinquency and may be express or implied depending on the origin of any Federal non-tax debt giving rise to a default or delinquency. Additionally, for the third exclusion, the date of receipt of the notice of a final default deadline or delinquency by the intended party or debtor will be used for purposes of verifying receipt of notice.

139. In addition to the Auction 1000 Application Procedures PN, applicants are encouraged to review the Bureau’s previous guidance on default and delinquency disclosure requirements in the context of the auction application process. Parties are also encouraged to consult with the Bureau’s Auctions and Spectrum Access Division staff if they have any questions about default and delinquency disclosure requirements.

140. The Commission considers outstanding debts owed to the United States Government, in any amount, to be a serious matter. The Commission adopted rules, including a provision referred to as the “red light rule,” that implement its obligations under the Debt Collection Improvement Act of 1996, which governs the collection of debts owed to the United States. Under the red light rule, applications and other requests for benefits filed by parties that have outstanding debts owed to the Commission will not be processed. In the same rulemaking order, the Commission explicitly declared, however, that its competitive bidding rules “are not affected” by the red light rule. As a consequence, the Commission’s adoption of the red light rule does not alter the applicability of any of its competitive bidding rules, including the provisions and certifications of 47 CFR 1.2105 and 1.2106, with regard to current and former defaults or delinquencies.

141. The Bureau reminds each applicant, however, that the Commission’s Red Light Display system, which provides information regarding debts currently owed to the Commission, may not be determinative of an auction applicant’s ability to comply with the default and delinquency disclosure requirements of 47 CFR 1.2105. Thus, while the red light rule ultimately may prevent the processing of post-auction applications by auction winners, an auction applicant’s lack of current “red light” status is not necessarily determinative of its eligibility to participate in an auction or of its upfront payment obligation. Moreover, a prospective applicant in Auction 1002 should note that any post-auction application filed after the close of bidding will be reviewed for compliance with the Commission’s red light rule, and such review may result in the dismissal of a winning bidder’s post-auction application. The Bureau strongly encourages each applicant (including its affiliates, controlling interests, and the affiliates of its controlling interests) to carefully review all records and other federal agency databases and information sources available to it to determine whether the applicant owes or was ever delinquent in the payment of non-tax debt owed to any Federal agency.

xi. Optional Applicant Status Identification

142. Applicants owned by members of minority groups and/or women, as defined in 47 CFR 1.2110(c)(3), and rural telephone companies, as defined in 47 CFR 1.2110(c)(4), may identify themselves regarding this status in filling out their FCC Form 175 applications. This applicant status information is collected for statistical purposes only and assists the Commission in monitoring the participation of various groups in its auctions.

xii. Modifications to FCC Form 175

a. Only Minor Modifications Allowed

143. After the initial FCC Form 175 filing deadline, an Auction 1002 applicant will be permitted to make only minor changes to its application. Examples of minor changes include the deletion or addition of authorized bidders (to a maximum of three), revision of addresses and telephone numbers of the applicant, its responsible party, and its contact person, and change in the applicant's selected bidding option (electronic or telephonic). Major modification to an FCC Form 175 application (e.g., change of license area selection, change in ownership that would constitute an assignment or transfer of control of the applicant, change of certifying official, change in applicant's legal classification that results in a change in control, or change in claimed eligibility for a higher percentage of bidding credit) will not be permitted after the initial FCC Form 175 filing deadline. If an applicant makes a "major amendment," as defined by 47 CFR 1.2105(b)(2), the major amendment will not be accepted and may result in the dismissal of the application. Any change in control of an applicant—resulting from a merger, for example—will be considered a major modification, and the application will consequently be dismissed. The Bureau reiterates that, even if an applicant's FCC Form 175 is dismissed, the applicant would remain subject to the communication prohibitions of 47 CFR 1.2105(c) until the down-payment deadline.

b. Duty to Maintain Accuracy and Completeness of FCC Form 175

144. Each applicant has a continuing obligation to maintain the accuracy and completeness of information furnished in its pending application, including a pending application in a competitive bidding proceeding. An Auction 1002 applicant must furnish additional or corrected information to the Commission within five days after a significant occurrence, or amend its FCC Form 175 no more than five days after the applicant becomes aware of the need for the amendment. Changes that cause a loss of or reduction in the percentage of bidding credit specified on the originally-submitted application must be reported immediately, and no later than five business days after the change occurs. An applicant's obligation to make modifications to a pending application in order to provide additional or corrected information continues in accordance with the Commission's rules. The Bureau notes that an applicant is obligated to amend its pending application even if a reported change is considered to be a major modification that may result in the dismissal of its application.

c. Submitting Modifications to FCC Form 175

145. If an applicant needs to make permissible minor changes to its FCC Form 175, or must make changes in order to maintain the accuracy and completeness of its application pursuant to 47 CFR 1.65 and 1.2105(b)(4), during a time when the system is available to the applicant for purposes of making the type of change(s) required, such changes should be made electronically to its FCC Form 175 using the Auction System. For the change to be submitted and considered by the Commission, an applicant must click on the SUBMIT button. After the revised application has been submitted, a confirmation page will be displayed stating the submission time, submission date, and a unique file number.

146. An applicant cannot use the Auction System outside of the initial and resubmission filing windows to make changes to its FCC Form 175 for other than administrative changes (e.g., changing responsible party or contact person name and related information, adding or deleting an authorized bidder). If other permissible minor changes need to be made, or if changes are required pursuant to 47 CFR 1.65 and 1.2105(b)(4), outside of these filing windows, the applicant must submit a letter briefly

summarizing the changes to its FCC Form 175 by e-mail to auction1002@fcc.gov. The e-mail summarizing the changes must include a subject or caption referring to Auction 1002 and the name of the applicant, for example, “Re: Changes to Auction 1002 Application of XYZ Corp.” Any attachments to e-mail must be formatted as Adobe® Acrobat® (PDF) or Microsoft® Word documents. Questions about FCC Form 175 amendments should be directed to the Auctions and Spectrum Access Division at (202) 418-0660. An applicant that submits its changes in this manner must subsequently update its FCC Form 175 application in the Auction System once it is open and available to applicants. Moreover, after the initial filing window has closed, the Auction System will not permit an applicant to make certain permissible changes itself (e.g., correcting a misstatement of the applicant’s legal classification, reducing the applicant’s claimed bidding credit level). This is the case because certain fields on the FCC Form 175 will no longer be available to, or changeable by, the applicant after the initial application filing window closes. If an applicant needs to make a permissible minor change that cannot be made using the Auction System, it must submit a written request by e-mail to the auction1002@fcc.gov mailbox requesting that the Commission manually make the change on the applicant’s behalf. The applicant must then recertify and resubmit its application by clicking on the SUBMIT button to confirm the change.

147. As with the FCC Form 175, any application amendment and related statements of fact must be certified by an authorized representative of the applicant with authority to bind the applicant. Applicants should note that submission of any such amendment or related statement of fact constitutes a representation by the person certifying that he or she is an authorized representative with such authority, and that the contents of the amendment or statement of fact are true and correct.

148. Applicants must not submit application-specific material through the Commission’s Electronic Comment Filing System. Further, as discussed in the Prohibited Communications PN, parties submitting information related to their applications should use caution to ensure that their submissions do not contain confidential information or communicate information that would violate 47 CFR 1.2105(c) or the limited information procedures adopted for Auction 1002. A party seeking to submit, outside of the

Auction System, information that might reflect non-public information, such as an applicant's license area selections, upfront payment amount, or bidding eligibility, should consider submitting any such information along with a request that the filing or portions of the filing be withheld from public inspection until the end of the prohibition of certain communications period pursuant to 47 CFR 1.2105(c).

D. Auction 1002 Process

i. Online Auction Tutorials and Training

149. Online auction tutorials will be available on the Auction 1002 web page for prospective bidders to familiarize themselves with the forward auction application and bidding processes. The online tutorials will provide information about pre-auction procedures, completing auction applications, auction conduct, the Auction System, auction rules, and 600 MHz Band service rules. Specifically, the first auction tutorial will focus on the auction application process and the second tutorial will focus on the bidding process. Both tutorials will also provide an avenue to ask Commission staff questions about the auction, auction procedures, filing requirements, and other matters related to the forward auction. The tutorials will allow viewers to navigate the presentation outline, review written notes, listen to audio recordings of the notes, and search for topics using a text search function. Additional features of this web-based tool include links to auction-specific Commission releases, e-mail links for contacting Commission licensing and auctions staff, and screen shots of the online application and Auction System. Using a web browser with Adobe Flash Player, the tutorials will be accessible from the Commission's Auction 1002 web page at <http://www.fcc.gov/auctions/1002> through an "Auction Tutorial" link under the "Education" tab. The application tutorial will be available on the Auction 1002 web page under the "Education" tab on January 7, 2016, and the bidding process tutorial will be available on February 29, 2016. Once posted, the tutorials will remain available and accessible anytime for reference in connection with the procedures outlined in the Auction 1000 Application Procedures PN. In addition, an Auction 1002 applicant whose application has been deemed to be "complete" will be provided with additional opportunities to gain knowledge and experience with the auction bidding system prior to the mock

auction that will be offered to qualified bidders. Based on the Bureau's experience with past auctions, parties interested in participating in this auction will find the interactive, online tutorials an efficient and effective way to further their understanding of the auction process.

ii. FCC Form 175 – Due Prior to 6:00 p.m. ET on January 28, 2016

150. In order to be eligible to bid in the forward auction, applicants must first follow the procedures set forth in the FCC Form 175 Instructions to submit an FCC Form 175 electronically via the Auction System.

151. An applicant may file its application to participate in Auction 1002 during the filing window that will begin at noon ET on January 14, 2016 and close at 6:00 p.m. ET on January 28, 2016. The application must be submitted **prior to** the closing of the filing window. **Late applications will not be accepted.** No application fee is required, but an applicant must submit a timely upfront payment to be eligible to bid. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. There are no limits or restrictions on the number of times an application can be updated or amended until the filing deadline on January 28, 2016.

152. An applicant must always click on the SUBMIT button on the "Certify & Submit" screen to successfully submit its FCC Form 175 and any modifications; otherwise the application or changes to it will not be received or reviewable by Commission staff. Additional information about accessing, completing, and viewing the FCC Form 175 will be included in the FCC Form 175 Instructions. FCC Auctions Technical Support is available at (877) 480-3201, option nine; (202) 414-1250; or (202) 414-1255 (TTY); hours of service are Monday through Friday, from 8:00 a.m. to 6:00 p.m. ET. In order to provide better service to the public, all calls to Technical Support are recorded.

iii. Application Processing and Minor Corrections

a. Public Notice of Applicants' Initial Application Status and Opportunity for Minor Corrections

153. After the deadline for filing auction applications, the Bureau will process all timely submitted applications to determine which are complete, and subsequently will issue a public notice with applicants' initial application status identifying (1) those that are complete, (2) those that are rejected, and (3) those that are incomplete or deficient because of minor defects that may be corrected. The public notice will include the deadline for resubmitting corrected applications.

154. After the application filing deadline on January 28, 2016, applicants can make only minor corrections to their applications. Major modifications (e.g., change license selection, change control of the applicant, change the certifying official, or claim eligibility for a higher percentage of bidding credit) will not be permitted.

155. Commission staff will communicate only with an applicant's contact person or certifying official, as designated on the applicant's FCC Form 175, unless the applicant's certifying official or contact person notifies Commission staff in writing that another representative is authorized to speak on the applicant's behalf. Authorizations may be sent by e-mail to auction1002@fcc.gov.

b. Public Notice of Applicants' Final Application Status After Upfront Payment Deadline

156. The Auction 1002 Qualified Bidders PN will be issued at least 15 business days before bidding in the initial stage of Auction 1002 begins. Qualified bidders are those applicants with submitted FCC Form 175 applications that are deemed timely-filed and complete, provided that such applicants have timely submitted an upfront payment that is sufficient to qualify them to bid.

iv. Upfront Payments and Bidding Eligibility

157. In order to be eligible to bid in Auction 1002, an applicant must submit an upfront payment. An upfront payment is a refundable deposit made by each bidder to establish its eligibility to bid on licenses. Upfront payments help deter frivolous or insincere bidding, and provide the Commission with a source of funds in the event that the bidder incurs liability during the auction. Upfront payments will be due after the initial clearing target and associated band plan scenario has been determined. The deadline for submitting upfront payments for Auction 1002, as well as detailed instructions about submitting upfront payments, will be provided in the Upfront Payment PN.

158. The amount of the upfront payment will determine a bidder's initial bidding eligibility in terms of bidding units, i.e., the maximum number of blocks, as measured by their associated bidding units, a bidder may demand in the clock phase of the forward auction. In order to bid for blocks in a particular PEA, a qualified bidder must have selected that PEA on its FCC Form 175 and must have a current eligibility level that meets or exceeds the number of bidding units assigned to the blocks in that PEA multiplied by the number of blocks for which it wishes to bid. At a minimum, an applicant's total upfront payment must be enough to establish eligibility to bid on at least one block in one of the PEAs selected on its FCC Form 175 for Auction 1002, or else the applicant will not be eligible to bid in the auction. In addition, each applicant should check its calculations carefully, as there is no provision for increasing a bidder's eligibility after the upfront payment deadline. An applicant does not have to make an upfront payment to cover all of the blocks in all of the license areas the applicant selected on its FCC Form 175, but only enough to cover the maximum number of bidding units that are associated with the blocks in the license area(s) on which it wishes to bid in any round. The total upfront payment does not affect the prices at which the bidder may demand blocks, nor the bidder's dollar commitment associated with the bidder's total demands at any point in the auction.

159. The Commission adopted an upfront payment amount of \$2,500 per bidding unit for Auction 1002. The number of bidding units assigned to the spectrum blocks in each PEA, calculated

using the approach adopted by the Commission in the Auction 1000 Bidding Procedures PN is set forth in Attachment 1, Appendix F (Forward Auction Bidding Units, Upfront Payments, and Minimum Opening Bids) to the Auction 1000 Application Procedures PN. The number of bidding units for the blocks in a given PEA will be fixed and will not change during the auction, regardless of price changes. The specific minimum opening bids and upfront payments for the forward auction are set forth in Attachment 1, Appendix F to the Auction 1000 Application Procedures PN.

160. Applicants considered to be former defaulters under the Commission's rules must make upfront payments that are 50 percent greater than non-former defaulters. For purposes of this calculation, an "applicant" includes the applicant itself and its controlling interests, as defined in 47 CFR 1.2105 and 1.2110. If an applicant is a former defaulter, it must calculate its upfront payment for all of its identified licenses by multiplying the number of bidding units on which it wishes to be active by 1.5. In order to calculate the number of bidding units to assign to former defaulters, the Commission will divide the upfront payment received by 1.5 and round the result up to the nearest bidding unit.

v. Auction Registration

161. All qualified bidders listed in the Auction 1002 Qualified Bidders PN will be automatically registered for the auction. Registration materials will be distributed prior to the auction by overnight mail. The mailing will be sent only to the contact person at the contact address listed in the FCC Form 175 application and will include the SecurID® tokens that will be required to place bids, the "Auction System Bidder's Guide," and the Auction Bidder Line phone number. Forward auction qualified bidders will have access to detailed impairment information, including the actual source and location of any impairment, upon receipt of their registration materials.

162. Qualified bidders that do not receive this registration mailing will not be able to submit bids. Therefore, if this mailing is not received by noon five days prior to the mock auction, call the Auctions Hotline at (717) 338-2868. Receipt of this registration mailing is critical to participating in the auction, and each applicant is responsible for ensuring it has received all of the registration material.

163. In the event that SecurID® tokens are lost or damaged, only a person who has been designated as an authorized bidder, the contact person, or the certifying official on the applicant's FCC Form 175 may request replacements. To request replacement of these items, call Technical Support at (877) 480-3201, option nine; (202) 414-1250; or (202) 414-1255 (TTY).

vi. Remote Electronic Bidding

164. The Commission will conduct this auction over the Internet, and telephonic bidding will be available as well. Only qualified bidders are permitted to bid. Each applicant should indicate its bidding preference—electronic or telephonic—on its FCC Form 175. In either case, each authorized bidder must have its own designated SecurID® token, which the Commission will provide at no charge. Each authorized bidder will be issued a unique SecurID® token. For security purposes, the SecurID® tokens, the telephonic bidding telephone number, and the “Auction System Bidder’s Guide” are only mailed to the contact person at the contact address listed on the FCC Form 175. Each SecurID® token is tailored to a specific auction and designated authorized bidder. SecurID® tokens issued for other auctions or obtained from a source other than the Commission will not work for Auction 1002. All telephone calls are recorded.

vii. Mock Auction – Clock and Assignment Phases

165. All Auction 1002 qualified bidders will be eligible to participate in a mock auction prior to bidding in Auction 1002. This mock auction will enable bidders to become familiar with the ascending clock auction format and assignment phase bidding using the Auction System prior to the start of the auction. The Bureau strongly recommends that all bidders participate in the mock auction. The date for the mock auction will be announced in Auction 1002 Qualified Bidders PN.

IV. POST-AUCTION PROCESS

A. Channel Reassignment PN

166. Following completion of the reverse and forward auctions, the Media and Wireless Telecommunications Bureaus will announce the results of the incentive auction and the repacking process in the Channel Reassignment PN. Specifically, the Channel Reassignment PN will provide the results of the reverse auction, the forward auction and the repacking, indicating the reassignments of television channels and reallocations of broadcast television spectrum. The Channel Reassignment PN will also establish the beginning of a 39-month post-auction transition period. Finally, the Channel Reassignment PN will provide additional details relating to post-auction procedures for successful bidders in the reverse and forward auctions, respectively.

B. Incentive Payments to Reverse Auction Winning Bidders

i. Payees and Transmittal

167. Incentive payments will be disbursed from the proceeds received in the forward auction. A successful bidder in the reverse auction must submit the necessary financial information via a standardized incentive payment form to facilitate the disbursement of its incentive payment. Specific procedures for submitting the form, including applicable deadlines, will be set forth in the Channel Reassignment PN. As noted in the Incentive Auction R&O, the Commission intends to follow winning reverse auction bidders' payment instructions as set forth on their respective standardized incentive payment forms to the extent permitted by applicable law.

ii. Time of Payment

168. The Commission will share auction proceeds with broadcasters relinquishing spectrum usage rights as soon as practicable following the successful conclusion of the incentive auction. As explained in the Incentive Auction R&O, the Commission may disburse auction proceeds only after spectrum licenses associated with winning forward auction bids have been granted, absent express

statutory direction to do otherwise. The Commission typically grants spectrum licenses after an auction on a rolling basis, as license applications filed by winning bidders are ready to be granted. Likewise, incentive auction proceeds will become available for distribution on a rolling basis over time and at intervals tied to the forward auction licensing process. Consequently, the Bureau cannot at this point set a specific deadline for sharing incentive auction proceeds.

169. The Commission is committed to disbursing auction proceeds as promptly as possible while meeting all of its statutory responsibilities. As the Commission noted in the Auction 1000 Comment PN, circumstances regarding the post-auction transition process for broadcasters may make it in the public interest to prioritize payments to some broadcasters over others in order to expedite the entire post-auction transition process. The Commission may take factors that facilitate the transition process into account when determining the sequence of payments sharing auction proceeds.

C. Forward Auction Participants

170. Shortly after bidding has ended, the Channel Reassignment PN will be issued declaring the auction closed, identifying the winning bidders and the total amount that they will owe, and establishing the deadlines for submitting down payments, final payments, post-auction applications, and ownership disclosure information reports. The Channel Reassignment PN will include the type information that is traditionally contained in an auction closing public notice.

i. Calculating Individual License Prices

171. In order to calculate individual license prices, the Auction System must determine how to apportion to individual licenses any assignment phase payments and potentially, any capped bidding credit discounts, since in both cases, a single amount may apply to multiple licenses. For example, a single assignment phase payment will apply to multiple licenses if a bidder won multiple licenses in a PEA or if PEAs were grouped for bidding in the assignment phase. A single capped bidding credit will

apply if a bidder's bidding credit percentage as applied to all its winnings in small markets or in all markets overall, results in a discount larger than the applicable cap.

172. In order to calculate individual license prices, the Auction System will: (1) calculate, for all licenses won by a bidder with a bidding credit, the total amount of any bidding credit discount for the bidder, capping that amount as needed (for a winning bidder claiming a small business bidding credit, this requires a determination in (1) of which bidding credit cap(s) apply); (2) apportion the total discount amount to the group of licenses won by the bidder in each PEA or assignment phase PEA group; (3) apportion the resulting discount and the assignment phase payment among the individual licenses won in the PEA/PEA group; and finally, (4) calculate the license price net of any bidding credit discount as the sum of the impairment adjusted clock phase price for that license plus the amount apportioned to the license in (3). To calculate the gross individual license price, the Auction System will ignore any apportioned bidding credit discount. For more detailed information about how final license prices are determined, please see Attachment 1, Appendix H (Forward Auction Assignment Phase and Post-Auction License Prices), attached to the Auction 1000 Application Procedures PN.

173. Consistent with past practices, the verification of eligibility and final calculation of any designated entity benefits for any license won in Auction 1002 will be conducted during the post-auction application process.

ii. Down Payments

174. Within ten business days after release of the Channel Reassignment PN, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Commission for Auction 1002 to twenty percent of the amount of its total final payments net of any applicable small business or rural service provider bidding credits.

iii. Final Payments

175. Each winning bidder will be required to submit the balance of the net amount of its total final payments within ten business days after the applicable deadline for submitting down payments.

iv. Post-Auction Application (FCC Form 601)

176. The Commission's rules provide that, within ten business days after release of the Channel Reassignment PN, winning bidders must electronically submit a properly completed post-auction application (FCC Form 601) for the license(s) they won through Auction 1002.

177. A winning bidder claiming eligibility for a small business bidding credit or a rural service provider bidding credit must demonstrate its eligibility in its FCC Form 601 post-auction application for the bidding credit sought. Further instructions on these and other filing requirements will be provided to winning bidders in the Channel Reassignment PN.

178. Winning bidders organized as bidding consortia must comply with the FCC Form 601 post-auction application procedures established in the CSEA/Part 1 Report and Order. Specifically, each member (or group of members) of a winning consortium seeking separate licenses will be required to file a separate post-auction application for its respective license(s). If the license is to be partitioned or disaggregated, the member (or group) filing the post-auction application must provide the relevant partitioning or disaggregation agreement in its post-auction application. In addition, if two or more consortium members wish to be licensed together, they must first form a legal business entity, and the post-auction application must demonstrate that any such entity must meet the applicable designated entity criteria.

v. Ownership Disclosure Information Report (FCC Form 602)

179. Within ten business days after release of the Channel Reassignment PN, each winning bidder must also comply with the ownership reporting requirements in 47 CFR 1.913, 1.919, and 1.2112

by submitting an ownership disclosure information report for wireless telecommunications services (FCC Form 602) with its FCC Form 601 post-auction application.

180. If a winning bidder already has a complete and accurate FCC Form 602 on file in Universal Licensing System (ULS), it is not necessary to file a new report, but the winning bidder must certify in its FCC Form 601 application that the information on file with the Commission is complete and accurate. If the winning bidder does not have an FCC Form 602 on file, or if it is not complete and accurate, it must submit one.

181. When a winning bidder submits an FCC Form 175, ULS automatically creates an ownership record. This record is not an FCC Form 602, but may be used to pre-fill the FCC Form 602 with the ownership information submitted on the winning bidder's FCC Form 175 application. A winning bidder must review the pre-filled information and confirm that it is complete and accurate as of the filing date of the FCC Form 601 post-auction application before certifying and submitting the FCC Form 602. Further instructions will be provided to winning bidders in the Channel Reassignment PN.

vi. Tribal Lands Bidding Credit

182. A winning bidder that intends to use its license(s) to deploy facilities and provide services to federally recognized tribal lands that are unserved by any telecommunications carrier or that have a wireline penetration rate equal to or below 85 percent is eligible to receive a tribal lands bidding credit as set forth in 47 CFR 1.2107 and 1.2110(f). A tribal lands bidding credit is in addition to, and separate from, any other bidding credit for which a winning bidder may qualify.

183. Unlike other bidding credits that are requested prior to the auction, a winning bidder applies for the tribal lands bidding credit after the auction when it files its FCC Form 601 post-auction application. When initially filing the post-auction application, the winning bidder will be required to advise the Commission whether it intends to seek a tribal lands bidding credit, for each license won in the auction, by checking the designated box(es). After stating its intent to seek a tribal lands bidding credit,

the winning bidder will have 180 days from the close of the post-auction application filing window to amend its application to select the specific tribal lands to be served and provide the required tribal government certifications. Licensees receiving a tribal lands bidding credit are subject to performance criteria as set forth in 47 CFR 1.2110(f)(3)(vii). For additional information on the tribal lands bidding credit, including how the amount of the credit is calculated, applicants should review the Commission's rulemaking proceeding regarding tribal lands bidding credits and related public notices.

vii. Default and Disqualification

184. Any winning bidder that defaults or is disqualified after the close of the auction (i.e., fails to remit the required down payment within the prescribed period of time, fails to submit a timely FCC Form 601 post-auction application, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 CFR 1.2104(g)(2). The default payment consists of a deficiency payment, equal to the difference between the amount of the Auction 1002 bidder's winning bid and the amount of the winning bid the next time a license covering the same spectrum is won in an auction, plus an additional payment equal to a percentage of the defaulter's bid or of the subsequent winning bid, whichever is less. For purposes of Auction 1002, the "winning bid" refers to the calculated license price discussed in the "Calculating Individual License Prices" section of the Auction 1000 Application Procedures PN and set forth in section 9 of Appendix H in Attachment 1 (Forward Auction Assignment Phase and Post-Auction License Prices) to the Auction 1000 Application Procedures PN.

185. The percentage of the bid that a defaulting bidder must pay in addition to the deficiency will depend on the auction format ultimately chosen for a particular auction. The Commission's rules specify that in an auction without combinatorial bidding, such as Auction 1002, the percentage shall be between three and 20 percent. In the Auction 1000 Comment PN, the Commission proposed an additional default payment of 20 percent of the applicable bid for the forward auction, concluding that the maximum amount is in the public interest given the importance of deterring defaults in order to minimize the possibility that the actual proceeds generated by the auction will not differ significantly from the amounts

used to determine that the final stage rule is met. As the Commission noted in the Incentive Auction R&O, parties receiving the first disbursements of auction proceeds once amounts become available for distribution—including broadcasters relinquishing spectrum usage rights—will be insulated from the effects of any forward auction bidder defaults. The Commission received no comment on this proposal. Given the policy and public interest considerations underlying this proposal, and in the absence of any opposition, the Bureau adopts an additional default payment of 20 percent for Auction 1002.

186. Finally, in the event of a default, the Commission has the discretion to re-auction the license or offer it to the next highest bidder (in descending order) at its final bid amount. In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing authorizations held by the applicant.

viii. Refund of Remaining Upfront Payment Balance

187. After the auction, an applicant that is not a winning bidder or is a winning bidder whose upfront payment exceeded the net amount of its total final payments may be entitled to a refund of some or all of its upfront payment. Information about requesting a refund of a remaining upfront payment balance will be provided in the Upfront Payment PN. A bidders should not request a refund of their upfront payments before the Commission releases a public notice declaring the auction closed, identifying the winning bidders, and establishing the deadlines for submitting down payments, FCC Form 601 post-auction applications, and final payments.

V. SUPPLEMENTAL FINAL REGULATORY FLEXIBILITY ANALYSIS

188. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared a Supplemental Final Regulatory Flexibility Analysis (SFRFA) of the possible significant economic impact on small entities by the procedures and instructions described in Attachment

4 of the Auction 1000 Application Procedures PN.

A. Need for, and Objectives of, Public Notice

189. The Auction 1000 Application Procedures PN implements the procedures established in the Commission's prior orders to carry out the broadcast television spectrum incentive auction, which is scheduled to begin on March 29, 2016, and consists of the reverse auction (Auction 1001) and the forward auction (Auction 1002). In the Auction 1000 Comment PN, the Commission sought comment on the proposals for conducting the incentive auction, including the proposed procedures for the forward auction, the reverse auction, and the integration of the reverse and forward auctions, that would implement rules previously proposed in the Incentive Auction NPRM and adopted in the Incentive Auction R&O. In the Auction 1000 Bidding Procedures PN, the Commission established the bidding procedures for the reverse and forward auctions. Pursuant to the Commission's direction, the Auction 1000 Application Procedures PN establishes the application procedures for the reverse and forward auctions; provides detailed information, instructions, and deadlines for filing applications; and finalizes certain post-auction procedures established by the Commission's prior orders.

190. Previously, as required by the RFA, the Commission prepared an Initial Regulatory Flexibility Analysis (IRFA) in connection with the Incentive Auction NPRM and a Final Regulatory Flexibility Analysis (FRFA) in connection with the Incentive Auction R&O. Likewise, the Commission's Mobile Spectrum Holdings NPRM included an Initial Regulatory Flexibility Analysis and the Mobile Spectrum Holdings R&O included a Final Regulatory Flexibility Analysis (MSH FRFA). Recently, the Commission modified its Part 1 competitive bidding rules, including the designated entity rules that apply to all licenses acquired with bidding credits, including those won in Auction 1002. The Part 1 NPRM and Part 1 PN included an IRFA and Supplemental IRFA respectively, and the resulting Part 1 R&O included a Final Regulatory Flexibility Analysis (Part 1 FRFA).

191. Following the release of the Auction 1000 Comment PN, a Supplemental Public Notice sought comment on how the proposals in the Auction 1000 Comment PN could affect either the IRFA or

the FRFA. The Supplemental Public Notice provided that the proposals in the Auction 1000 Comment PN did not change any of the matters described in the IRFA or FRFA. As further noted in the Supplemental Public Notice, the request for comment focused on how the proposals in the Auction 1000 Comment PN might affect either the IRFA or the FRFA.

192. The subsequent Auction 1000 Bidding Procedures PN included a Supplemental Final Regulatory Flexibility Analysis (Bidding Procedures PN SFRFA) that addressed any determinations by the Commission that might have affected the IRFA and FRFA. In the Bidding Procedures PN SFRFA, one commenter responded to the Supplemental Public Notice. The SFRFA addressed this response accounting for any particular impact on small businesses and explaining the reasons supporting the Commission's decisions. Aside from those comments that have been addressed in the Auction 1000 Bidding Procedures PN and the associated SFRFA, no other comments have been filed in response to the Supplemental Public Notice or the application procedures and instructions set forth in the Auction 1000 Application Procedures PN. As such, the procedures and instructions in the Public Notice do not change the analysis set forth in the IFRA, FRFA, and Bidding Procedures PN SFRFA. This SFRFA summarizes the application procedures in the Public Notice to assure that the Bureau has accounted properly for any economic impact on small businesses, consistent with the IRFA and FRFA.

193. Under the application procedures governing the conduct of the reverse auction, licensees of commercial and noncommercial educational full power and Class A television stations (eligible broadcast licensees) identified in the Final Baseline may apply to participate in the reverse auction. On its application (FCC Form 177), an eligible broadcast licensee will have up to three bid options depending on its pre-auction band: (1) go off-air (available to all stations); (2) move to a Low-VHF channel (available to UHF or High-VHF stations); and (3) move to a High-VHF channel (available only to UHF stations). Additionally, if the applicant's application is timely-filed and deemed complete, it must then commit, at the associated opening price, to a preferred relinquishment option for each station for which it wishes to

place bids in the clock rounds. Reverse auction bidders will be able to participate in the reverse auction over the Internet using the Commission's Auction System.

194. In the forward auction, each applicant must submit electronically through the Commission's Auction System a complete, accurate, and timely application (FCC Form 175), and submit a timely and sufficient upfront payment. Each stage of forward auction will consist of two phases—an ascending clock phase and an assignment phase. Forward auction bidders will also be able to participate in the forward auction over the Internet using the Commission's Auction System. Following the completion of the reverse and forward auctions, the Bureaus will release a Channel Reassignment PN that will provide the results of the reverse auction, the forward auction, and the repacking, indicating the reassignment of the television channels and reallocation of broadcast television spectrum, among other things.

B. Summary of Significant Issues Raised by Public Comments in Response to the Supplemental Notice

195. The Bidding Procedures PN SFRFA addressed the only response to the Supplemental Public Notice, and no subsequent comments were filed in response to the Supplemental Public Notice. Thus, no specific alternative procedures were raised for consideration by the Bureau. However, the Bureau considered the potential impact of the auction procedures and instructions in the Auction 1000 Application Procedures PN on all potential participants, including small businesses.

196. Pursuant to the Small Business Jobs Act of 2010, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the Auction 1000 Comment PN or the Supplemental Public Notice.

C. Description and Estimate of the Number of Small Entities to which Specified Auction 1000 Procedures Will Apply.

197. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by rules proposed in that rulemaking proceeding, if adopted. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Auction 1000 is the first-of-its-kind incentive auction and participation is voluntary; therefore, the Bureau cannot make a meaningful estimate of the number of small entities who may apply to participate in the reverse and forward auctions. However, the Bureau anticipates greater participation by small businesses in the forward auction due to the recent changes in the Commission’s designated entity rules aimed at providing greater opportunities for small businesses to gain access to capital in order to participate meaningfully at Commission auctions, including Auction 1002. Because the Auction 1000 Application Procedures PN implements those procedures and policies established in the Commission’s orders relating to Auction 1000, the procedures, terms, and conditions may affect the same individuals and entities described in paragraphs 14 through 36 of the FRFA, paragraphs 5 through 30 of the MSH FRFA, and paragraphs 9 through 35 of the Part 1 FRFA.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.

198. Some of the application procedures contained in the Auction 1000 Application Procedures PN will affect reporting, recordkeeping, and other compliance requirements for small entities. However, these procedures implement the rules and policies established in the Commission’s orders, including the factual, policy, and legal analyses supporting those policies. Additionally, no comments

were filed in response to these particular procedures and the Bureau intends to apply them uniformly to all entities, including small businesses. However, to the extent that some of the procedures in the Auction 1000 Application Procedures PN may provide supplemental information for small businesses, the Bureau summarizes these relevant procedures.

i. Reverse Auction (Auction 1001)

199. Red Light Rule. To encourage broadcaster participation in the reverse auction, in the Auction 1000 Application Procedures PN, the Bureau waives the red light rule for the limited purpose of permitting any licensee that is red lighted for debt owed to the Commission at the time it submits a reverse auction application to participate in the reverse auction. Because a reverse auction applicant may incur debt to the Commission after submission of its application, and may fail to pay the debt when due, to participate in the auction, each reverse auction applicant will be required to certify in its application that it (1) acknowledges its liability to the Commission for any debt owed to the Commission that the applicant incurred before, or that it may incur after, the reverse auction application deadline, including all accrued interest, penalties and costs, and that the debt will continue to accrue interest, penalties and costs until paid; and (2) agrees that the Commission may pay all debt owed by the applicant to the Commission from the applicant's share of auction proceeds. Each reverse auction applicant will also be required to certify its agreement that if an appeal of, or request for waiver or compromise of, any debt owed by the applicant to the Commission is pending at the conclusion of the incentive auction, the Commission may withhold so much of the applicant's share of the auction proceeds as is necessary to pay the debt in full, including accrued interest, penalties and costs, until issuance of a final non-appealable decision regarding the debt or waiver or compromise request, and may then pay the debt from the applicant's withheld share.

200. Channel Sharing Certification. In the Incentive Auction R&O, the Commission adopted rules requiring prospective sharer stations under pre-auction channel sharing agreements (CSAs) to make certain certifications concerning their channel sharing arrangements. In addition to the certifications

adopted in the Incentive Auction R&O, a sharer station must also certify that the CSA submitted by the reverse auction applicant is a true, correct, and complete copy of the CSA between the parties.

201. Provisions Regarding Pending Proceedings. Each reverse auction applicant that selects going off-air as a bidding option for a station must indicate on its FCC Form 177 whether it will hold any other broadcast licenses if all of the bids that it might place to go off-air are accepted. If it will hold another broadcast license, then the applicant must certify that the applicant will remain subject to any license renewal, as well as any enforcement action, pending at the time of the auction application deadline against the station that may go off-air as a result of the auction. If it will not hold any other broadcast licenses, then the applicant must certify in its application (1) that pursuant to the Commission's announced procedures for resolving such matters in connection with this auction, the Commission may withhold a portion of the share of auction proceeds for the station, if any, pending final determination of any FCC liabilities with respect to the station and such portion may be applied towards the satisfaction of such liabilities; and (2) that the applicant remains subject to the Commission's jurisdiction and authority to impose enforcement or other FCC liabilities with respect to the station, notwithstanding the surrender of its license for the station.

202. Additionally, each reverse auction applicant must also indicate for each license identified in its application whether the license is subject: (1) to a non-final revocation order; or (2) has expired or been cancelled and is subject to a non-final license cancellation order. An applicant that includes a Class A television station in its application must indicate whether that station is subject to a non-final downgrade order. If an applicant indicates that a license in its application is subject to any of the foregoing revocation, cancellation, or downgrade proceedings, it must certify in its application that it agrees with the Commission's announced procedures to withhold all of any incentive payment for the station pending the final outcome of any such proceeding.

203. All auction proceeds held (i) to cover potential enforcement liabilities, (ii) because of an ongoing license validity or downgrade proceeding, or (iii) until final resolution of an appeal of a debt

determination or a compromise or waiver request will be held by the Commission in the U.S. Treasury. As determined by the Commission in the Incentive Auction R&O, amounts held following the auction will be released to the broadcaster or applied towards any forfeiture costs and other debt the broadcaster owes to the Commission, as appropriate in light of the final resolution of the relevant issues.

ii. Forward Auction (Auction 1002)

204. Certification of Eligibility for Reserved Spectrum. Under this certification requirement, a forward auction applicant that is eligible to bid on reserved spectrum blocks in a given PEA, and that included the PEA in its license area selection(s), must certify its eligibility to bid for reserved blocks in the PEA. An applicant is not required to bid on, or certify its eligibility for, reserved spectrum blocks in any or all areas in which it is eligible. However, an applicant that does not certify its eligibility with respect to a particular license area because it is not eligible or it declines to do so will not be able to bid for reserved spectrum blocks in that PEA during the auction.

205. Additional Default Payment. Any winning bidder that defaults or is disqualified after the close of the auction (i.e., fails to remit the required down payment within the prescribed period of time, fails to submit a timely FCC Form 601 post-auction application, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 CFR 1.2104(g)(2). The default payment consists of a deficiency payment, equal to the difference between the amount of the Auction 1002 bidder's winning bid and the amount of the winning bid the next time a license covering the same spectrum is won in an auction, plus an additional payment equal to a percentage of the defaulter's bid or of the subsequent winning bid, whichever is less. For Auction 1002, the additional default payment will be 20 percent.

E. Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered.

206. The RFA requires an agency to describe any significant alternatives beneficial to small entities considered in reaching a proposed approach, which may include the following four alternatives (among others): (1) establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification for small entities of compliance and reporting requirements; (3) use of performance, rather than design, standards; and (4) an exemption for small entities. The procedures, terms, and conditions in the Auction 1000 Application Procedures PN correlate to those proposals and policies articulated in the Commission's orders governing Auction 1000, including Auctions 1001 and 1002. As such, a description of the steps taken to minimize the significant economic impact and the alternatives considered for these proposals can be found in the FRFA, Bidding Procedures PN SFRFA, MSH FRFA, and Part 1 FRFA.

207. In the Auction 1000 Application Procedures PN, the Bureau describes the application procedures and instructions for Auctions 1001 and 1002, along with the post-auction process, which are summarized in this supplemental analysis. The policies adopted throughout the course of the incentive auction proceeding are consistent with the Commission's statutory obligations to "ensure that small businesses, rural telephone companies, and businesses owned by members of minority groups and women are given the opportunity to participate in the provision of spectrum-based services." The statute also directs the Commission to promote "economic opportunity and competition . . . by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses." For instance, the Commission concluded in the Incentive Auction R&O that licensing on a PEA basis is consistent with the requirements of section 309(j) because it would promote spectrum opportunities for carriers of different sizes, including small businesses. Moreover, the Commission recently revised its designated entity rules to provide small businesses with more flexibility to find the capital needed for acquiring licenses in auctions by, for instance, eliminating the attributable material

relationship rule (AMR rule) and increasing the gross revenue thresholds used for determining eligibility for small business bidding credits.

208. For Auction 1000, the Bureau has taken steps to minimize the administrative burdens for applicants throughout the application process while providing small businesses with the opportunity to participate in the reverse and forward auctions. These steps include, but are not limited to: (1) establishing auction websites as a central repository for auction information in addition to other Commission databases (e.g., ULS, CDBS) and making such online resources available at no charge for prospective applicants to research auction application and bidding procedures as well as Commission rules, policies, and other applicable decisions; (2) publishing public notices at key points of the reverse and forward auction processes to keep auction applicants informed of their application status, applicable auction requirements, and relevant deadlines; (3) organizing, for reverse auction applicants, several workshops to address the auction application and bidding processes; (4) providing web-based, interactive online tutorials for prospective bidders to walk through the auction process and the Auction System's application and bidding screens; (5) implementing a mock auction for all qualified bidders to obtain hands-on experience with the Commission's Auction System prior to the start of the reverse and forward auctions; (6) conducting both auctions electronically over the Internet using the Commission's Auction System to include providing online availability of round results and auction announcements; and (7) providing Commission staff to answer technical, legal, and other auction-related questions.

209. Although the processes surrounding the implementation of Auction 1000 are unique, the timelines from the announcement of Auction 1000 to the execution of the reverse and forward auctions were developed with the consideration of lowering costs and burdens of compliance with the Commission's competitive bidding and media rules for all applicants, including small businesses. Following the conclusion of Auction 1000, the Bureaus will continue to provide information and services to auction applicants to facilitate compliance with the Bureaus' competitive bidding and media rules in the form of additional public notices and continued support by Commission staff. In summary, a number

of application procedures which will be implemented in Auction 1000 were designed to facilitate auction participation by all interested applicants, including small businesses.

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